

GENERAL INFORMATION

WHO MUST FILE

New Mexico's law says every person who has income from New Mexico sources and who is required to file a federal income tax return must file a personal income tax return in New Mexico.

New Mexico Residents

If you are a New Mexico resident, you must file a New Mexico return if you meet any of the following conditions:

- You have to file a federal return.
- You want to claim a refund of any New Mexico state income tax withheld from your pay.
- You want to claim any New Mexico rebates or credits.

Non-residents

Non-residents, including foreign nationals and persons who reside in states that do not have income taxes must file here when they have a federal filing requirement and have income from any New Mexico source whatsoever.

Members of the Armed Forces

If you are a member of the military, were a resident of New Mexico at the time of enlistment, and have not changed your state of residency, the amount of your military pay that is subject to federal income tax is also subject to New Mexico income tax. You are required to file a resident return and claim a deduction for any military active duty pay.

You are still a New Mexico resident if your permanent home (domicile) was in New Mexico when you entered the military, and you kept New Mexico as your home of record for military purposes. File a New Mexico resident return even if you are presently serving outside New Mexico.

Your military pay is not subject to New Mexico income tax if your permanent home (domicile) was in New Mexico when you entered the military, but you have established a domicile in another

state and changed your residency status with the military.

Military pay of an enrolled member of an Indian nation, tribe or pueblo is exempt for periods in which the member's home of record is on the lands of that Indian nation, tribe, band or pueblo.

Member of an Indian Nation, Tribe or Pueblo

The income of Indians who worked or lived on lands outside the Indian nation, tribe, band or pueblo of which they are members is subject to New Mexico personal income tax.

Enrolled members of an Indian nation, tribe, band or pueblo who lived on the lands of the Indian nation, tribe, band or pueblo where they are members and whose entire income was earned from work on those lands do not need to file a New Mexico income tax return. "Enrolled member" includes the spouse or dependent of an Indian member, provided the spouse or dependent lives and works within the boundaries of the member's nation, tribe, band or pueblo. Lands include formal and informal reservations, dependent Indian communities, and Indian allotments, whether restricted or held in trust by the United States. Military pay of an enrolled member is exempt for periods in which the member's home of record is on the lands of the member's Indian nation, tribe, band or pueblo.

Retirement or pension income is exempt only when the enrolled member lives within the boundaries of the member's nation, tribe, band or pueblo, and the retirement or pension is the result of employment on the member's Indian nation, tribe, band or pueblo. Retirement or pension income from employment off the lands of the nation, tribe, band or pueblo may not be exempted.

Resident, Part-Year Resident, First-Year Resident and Non-resident Defined

For income tax purposes, your resident status depends on where you were domiciled during the tax year *and* whether you were **physically present in New Mexico for a total of 185 days or more** during the tax year. To determine whether you were physically present in New Mexico for a total of 185 days, count each day that you were here for 24 hours. For example, a person who resides in Texas but works in New Mexico was physically present in New Mexico for 185 partial days during the tax year. Because he was not here for 24 hours for any day, he is not a resident for New Mexico income tax purposes. **NOTE:** The 185 days do not have to be consecutive.

Your *domicile* is the place you intend as your permanent home. It is the **state** where your permanent home is located and where you intend to return whenever you are away (as on vacation, business assignment, educational leave or military assignment).

You can have only one domicile. Your New Mexico domicile is not changed until you can show that you have abandoned it and established a new domicile outside the state of New Mexico.

A change of domicile must be *clear and convincing*. Easily controlled factors are NOT the primary factors to consider in deciding where you are domiciled. If you move to a new location but intend to stay there only for a limited amount of time (no matter how long), your domicile does not change. If your domicile is New Mexico and you go to a foreign country for a business or work assignment, or for study, research or any other purpose, your domicile does not change unless you show that you definitely do not intend to return to New Mexico.

For purposes of the Income Tax Act, you are a New Mexico **resident** if your domicile was in New Mexico for the entire year, or if you were physically present in this state for a total of 185 days or more during the tax year, regardless of your domicile. **Residents include persons temporarily residing in New Mexico who plan to return to their out-of-state residence and who are physically present in New Mexico for 185 days or more.** Included are students, persons vacationing in New Mexico, and those temporarily assigned to work in New Mexico. Military personnel temporarily assigned to New Mexico who have established residency outside New Mexico are not New Mexico residents. Spouses who accompany military personnel to New Mexico must report as residents of New Mexico, regardless of domicile, if they are physically present in New Mexico for 185 days or more.

You are a **first-year resident** if you moved to New Mexico during the tax year with the intent of making New Mexico your permanent place of residence. A first-year resident need not have been physically present in New Mexico for at least 185 days. A former New Mexico resident who returns to the state may file as a first-year resident if that person has been a non-resident for at least one full tax year.

A New Mexico **part-year resident** is a person who was a New Mexico resident for part of the year *and* was not physically present in New Mexico for 185 days or more, but, on December 31, was no longer domiciled in New Mexico and had moved to another state intending to maintain domicile status in that other state.

Part-year residents and first-year residents who change domicile during the year are not residents of New Mexico for income tax purposes for periods when the taxpayer's domicile is outside New Mexico. For example: If you moved to New Mexico during the tax year, intending to make New Mexico your permanent place of residence, your income is taxed as non-resident for the period before your move to

New Mexico. Additionally, if you were a New Mexico resident for fewer than 185 days during the tax year, and on December 31 you moved to another state, intending to maintain domicile status in that other state, your income is non-resident income for periods after your change of abode.

You are a New Mexico **non-resident** if you were not domiciled in New Mexico for any part of the tax year *and* you were not physically present in New Mexico for at least 185 days. Military personnel who are temporarily assigned to New Mexico, but who have established residence in another state, should claim non-resident filing status.

NOTE: Except for certain military personnel and first-year residents, you must indicate "R" in the Residency Status box on page 1 of Form PIT-1 if you were physically present in New Mexico for more than 185 days during the tax year. For income tax purposes you are a resident of New Mexico.

Taxpayers Domiciled in Another State and Filing Form PIT-1 as Residents of New Mexico. If you are required to file a New Mexico personal income tax return as a New Mexico resident, but you are also required to file and pay tax to another state because your domicile is in another state, complete Schedule PIT-B to allocate and apportion your income to New Mexico. Then, claim a credit for taxes paid to another state on Form PIT-1, line 17, for income taxed by both states.

Refunds, Rebates and Credits

Even if you do not have to file a return, you should file for a refund if New Mexico income tax was withheld. You also may qualify for one or more credits or rebates offered by New Mexico. Attach Schedule PIT-RC if you are eligible to claim the low income comprehensive tax rebate, the property tax rebate for persons 65 years of age or older, an additional low income property tax rebate for Los Alamos County residents, or New Mexico child day care credit. The **general qualifications** for an individual claiming the credits

or rebates are:

- you were a resident of New Mexico during the tax year, **and**
- you were physically present in New Mexico for at least six months during the tax year, **and**
- you were **not** eligible to be claimed as a dependent of another taxpayer for the tax year **and**
- you were **not** an inmate of a public institution for more than six months of the tax year.

You may also use Schedule PIT-RC if you are eligible to claim:

- the refundable medical care credit for persons 65 or older,
- the film production tax credit,
- the working families tax credit,
- the special needs adopted child tax credit, or
- the renewable energy production tax credit.

There are other eligibility requirements for the various rebates and credits. For details see specific instructions for Schedule PIT-RC or the instructions for line 21, Form PIT-1.

Royalty Income of Non-residents

Non-resident taxpayers who elect to compute tax on **gross** royalty income under \$5,000 in lieu of filing a complete Form PIT-1 and Schedule PIT-B must mark the box under line 15, Form PIT-1, with a "Y", instead of an "R" for computing tax using the rate table, or "B" for computing tax using Schedule PIT-B. The indicator lets the Department know that you have gross royalty income from New Mexico sources of less than \$5,000, that you do not have any other income sourced to New Mexico and that you have elected to compute New Mexico income tax due based on the **gross** royalty income received.

To complete Form PIT-1 using this election, complete lines 1 through 6, 14, 15, 19, 20 and 22 through 36. Lines 7 through 13 must be left blank. Enter your total **gross** royalty income from New Mexico sources on line 14 and follow the instructions for lines 15, 19, 20 and 22 through 36. You cannot reduce your income by the standard deduction or exemption

amounts when you compute your tax in this way.

Representatives of Deceased Taxpayers

If a taxpayer dies before filing a return for 2008, the taxpayer's spouse or personal representative may have to file and sign a return for that taxpayer. A personal representative can be an executor, administrator or anyone in charge of the deceased taxpayer's property. If a taxpayer did not have to file a federal return, but New Mexico income tax was withheld, the representative must file a New Mexico return to claim a refund. File a joint New Mexico return if a joint federal income tax return was filed for the deceased taxpayer and the surviving spouse. The filing date is the same as if the taxpayer had lived. The person filing the return for the deceased should put an "X" in the appropriate box on page 1, Form PIT-1, indicating that the taxpayer or the taxpayer's spouse is deceased. Enter the month, day and year of death.

Include a copy of the death certificate or other proof of death if the return shows an overpayment and you are a surviving spouse, or if you are a successor requiring the refund to be made payable to the estate of the decedent.

If the return shows an overpayment, and you are a court-appointed or certified personal representative requiring the refund to be made payable to you, enter the claimant's name and social security number. Attach Form RPD-41083, *Affidavit to Obtain Refund of New Mexico Tax Due a Deceased Taxpayer*, to the taxpayer's refund claim. Include a copy of the death certificate or other proof of death.

Pass-Through Entities and S Corporations

Partnerships and other pass-through non-corporate entities, including limited liability partnerships (LLP) and limited liability investment companies (LLIC) — but excluding estates and trusts — are not subject to New Mexico personal income tax, but

individual members of the partnership or company are. If the entity has any partner or owner who is a New Mexico resident, or if the entity has any income from New Mexico sources, it must provide each partner or owner with the information necessary to file a New Mexico personal income tax return. A pass-through entity reports and pays withholding tax on behalf of all non-resident partners or owners having New Mexico source income unless the partner or owner has completed Form PTE-TA assuming responsibility for filing a New Mexico personal income tax return. See the instructions for Form PTE for details on pass-through entity filing requirements.

Estates and Trusts

Estates and trusts are subject to the New Mexico personal income tax. Except for grantor trusts, the fiduciary for an estate or trust files Form FID-1, *Fiduciary Income Tax Return*. See the instructions for Form FID-1 for more details. Each beneficiary of an estate or trust includes his or her share of the estate or trust income on the New Mexico personal income tax return even if the estate or trust itself was not required to file Form FID-1.

Community Property and Division of Income

New Mexico is a community property state, and all assets and liabilities acquired during a marriage are the community property of both spouses, unless the property is separate property. Debt established during a marriage is the liability of both spouses, even after the marriage is dissolved. Debt established before or after a marriage is considered separate debt, and only 50% of community property may be pursued to clear separate debt.

When a couple files Married Filing Separately, 50% of community income and all separate property is claimed on each spouse's return. A spouse may not have to report half of certain combined community income (e.g., wages, salaries, professional fees, pay for professional services, partnership income, trade or business income and Social Security benefits) if all of the

following conditions exist:

- You and your spouse lived apart all year;
- You and your spouse did not file a joint return;
- You and your spouse had wages, salaries, and professional fees that are community income; and
- You and your spouse did not transfer, directly or indirectly, any of the wages, salaries or professional fees between you during any part of the year.

Report half the total of all other types of community income (dividends, rents, royalties or gains) if you meet all of the above criteria. See FYI-310, *Community Property, Divorce, Separation and Your New Mexico Income Tax*, for further details.

For married persons filing separate, persons separated or divorced during the year, or married persons filing joint, claiming the exemption for income of persons 100 years or older, both your New Mexico and federal returns **MUST** reflect a correct division of **community and separate income and payments**. If your income and payments are not evenly distributed, attach a copy of a statement reflecting a correct division of community and separate income and payments.

See also the instructions for Schedule PIT-B for allocation and apportionment rules for the community property, when one spouse is a resident (but not both spouses), the couple is filing a joint return, and they have income from sources both in and out of New Mexico.

Innocent or Injured Spouse Relief, Separation of Liability and Equitable Relief

If you believe a joint federal tax liability should be paid solely by your spouse due to an understatement of tax, divorce or separation, you may be able to claim Innocent Spouse Relief, Separation of Liability or Equitable Relief from the Internal Revenue Service. If you file a joint tax return and all or part of your portion of the overpayment (community property) was or is

expected to be applied (offset) to your spouse's legally enforceable past-due liability, you may be able to claim Injured Spouse Relief from the Internal Revenue Service. Please refer to IRS Publications 971, *Innocent Spouse Relief (and Separation of Liability and Equitable Relief)* and Publication 504, *Divorced or Separated Individuals*.

Although state law prohibits the Department from forgiving state taxes due, the Department Secretary has the discretion to decline to bring collection action against an "innocent or injured spouse" when it is unfair to hold that spouse liable. When relief is granted in writing by the IRS, the spouse receiving the relief may provide the documenta-

tion of the relief to the Department and request the Department decline to bring or to cease collection action against them to the extent they are granted relief by the IRS.

Additionally, you may request from the Secretary that collection action not be brought against you for:

- liabilities established by your spouse when the income that established the liability was not claimed as community property;
- your portion of community property that is expected to be offset to clear the spouse's separate debt, or
- business related debt, when you

can show that you had no knowledge of the business, did not benefit from the business and that the income from the business was not claimed as community property.

To request relief from the Department, submit a written request to Taxation and Revenue Department, P.O. Box 630, Santa Fe, NM 87504-0630, or to your local district office. The addresses of the district offices are behind the front cover of the Personal Income Tax Form Packet. Do not attach the request for relief with your New Mexico Personal Income Tax Return. You must provide proof that you qualify for relief.

FILING METHODS

New Mexico offers taxpayers the choice of filing their tax returns in the traditional paper format or using computers to file electronic returns. We describe the options below to assist you in choosing the method that makes filing your New Mexico PIT return most convenient for you.

The Department encourages all taxpayers to file electronically whenever possible. Electronic filing is fast and secure. It provides the fastest turnaround for a refund and saves tax dollars, costing less to process than a paper return. *Taxpayers who file and pay electronically receive an extension of the filing deadline to April 30, 2009.* The filing deadline is April 15, 2009 for all other taxpayers. See *WHEN AND WHERE TO FILE AND PAY* on page 9 for details.

Filing by Paper Form

1) TRD provides **hard-copy New Mexico tax forms** to fill out by hand and mail back to the Department. These forms are in the personal income tax packet mailed to taxpayers. You can also ask for them at the TRD local offices listed inside the front cover. Some local libraries also may carry supplies of New Mexico tax forms.

2) You may **download tax forms** using Adobe Acrobat from TRD's Internet web site, where you will find personal

income tax forms you can print and mail to TRD. TRD's web address is: www.tax.state.nm.us. Click on "individuals" on the home page.

3) You can buy **software** to complete your income tax return on your personal computer (PC). You can then print and mail the tax return to TRD.

Caution: Submit only high-quality, printed, original forms to the Department. A poor print or photocopy of a form obtained from our web site or an approved software product will delay the processing of your return and your refund, credit or rebate.

File Returns on Approved State Forms. Always submit personal income tax returns on official state forms provided or approved by the Department. If you use a software product to generate your forms, the Department must first have approved the software company.

Computer-generated Returns. The New Mexico Taxation and Revenue Department approves companies who follow specifications and format requirements for the printed form. Acceptance of the software company does not imply endorsement by the Department or assurance of the quality of services provided. See the list of approved software developers and vendors on the TRD web site,

www.tax.state.nm.us. Click on "Tax professionals" and select "2008 New Mexico Form Vendors", or call (505) 827-2481.

When using any computer-generated personal income tax form, you must comply with the printing and legibility requirements of the software developer. **Hint:** If your printer can print a logo clearly, then it can print a quality tax form.

Reminder: Never submit a *photocopy* of the form the software generates. Always submit the original computer-generated form and *retain a copy* for your records.

Filing Electronically

TRD offers two ways to file your PIT return electronically, both allowing you to file either a refund return or a tax-due return. File electronic returns through TRD's Internet web site or the Federal/State Electronic Filing Program.

Please note certain **restrictions** on who may file and the types of returns eligible for electronic filing. The TRD and IRS web sites listed below contain information about the personal income tax electronic filing options. There are Internet browser requirements for filing over the Internet. Details of these requirements are available at the TRD and IRS web sites. If you plan to have

a professional tax preparer file your return electronically, you may contact him or her for more information.

1) Using TRD's Internet Web Site

If you have access to the Internet from a personal computer (PC), free electronic filing is available on TRD's web site at the following address:

www.tax.state.nm.us

At the TRD web site click on "e-file PIT-Net". For security purposes, you will be required to build an online profile and login to the Unified Login Service to access PIT-Net. Enter your tax return information. Our Internet site prompts you on how to send your return **electronically**. *To file your return successfully, read and follow all PIT-Net instructions.* You will be able to print a copy of your return information for your own records, but do **not mail** a copy of the PIT-Net return to TRD. You will receive a confirmation number as proof and verification that the Department has received and accepted your return. *If you do not receive a confirmation number, you must try again.*

If you are due a refund, you may choose to receive a check or have the refund deposited directly into your checking or savings account. TRD is not responsible for the misapplication of a direct deposit refund that is caused by the error, negligence or malfeasance on the part of the taxpayer.

If you owe tax, you may pay via our web site using a credit card or electronic check, or you may mail a check or money order to TRD with a PIT-PV Payment Voucher. Mail the PIT-PV to the New Mexico Taxation and Revenue Department, P.O. Box 8390, Santa Fe,

NM 87504-8390. Make your check or money order payable to New Mexico Taxation and Revenue Department.

NOTE: *There is a 2.49% convenience charge if you pay by credit card. The fee reimburses the state for fees the credit card companies charge. There is no charge for an electronic check.*

2) Using the Federal/State Electronic Filing Program (Fed/State)

The Fed/State program, administered by the IRS, permits you to file your federal and state tax returns together or separately through electronic transmission. You may choose to file a Fed/State return through an online home filing program on a personal computer or through a professional tax preparer.

Fed/State Online Home Filing Program.

This method of filing requires access to the Internet. You can reach companies offering Fed/State e-file service and tax preparation software through the Internet. You can also purchase over-the-counter software.

The IRS has partnership agreements with companies to encourage electronic filing. A list of companies providing tax-preparation software and Fed/State e-file opportunities, including descriptions of their products, services, and cost, is available on the IRS web site. The IRS's e-file Provider Page lists companies participating in free Internet filing available to low income and other qualified individuals. For more information regarding the Fed/State e-file program participants, visit the IRS web site at the following address:

www.irs.gov

If you choose to use one of these services to e-file your state return, check that the software company supports New Mexico Personal Income Tax 2008 Electronic Filing, and that the New Mexico Taxation and Revenue Department has approved it. Visit the TRD web site for a list of approved software companies at the following address: www.tax.state.nm.us. Click on "Tax professionals" and click on *2008 New Mexico Approved Fed/State Software Developers*.

The New Mexico Taxation and Revenue Department approves companies who follow specifications and format requirements for the transmission file. Acceptance of the software company does not imply endorsement by the Department or assurance of the quality of its services.

Caution: When paying your taxes through the Fed/State program, you may make individual payments to both the IRS and to the State of New Mexico. Follow the correct instructions for making payment to the proper taxing authority. Do not combine payments to the IRS and to the State of New Mexico. You may also pay tax separately to New Mexico over the Internet through the TRD web site, or by submitting a check with a Form PIT-PV.

Fed/State Electronic Filing by a Professional Tax Preparer. Fed/State electronic filing service is also available through tax professionals who meet IRS and TRD qualifications for acceptance into the Fed/State program. Ask your professional tax preparer whether he or she has Fed/State approval. Professional preparers usually charge for their services.

REQUIRED FORMS AND ATTACHMENTS

Regardless of which federal form you file, **everyone** who files a New Mexico personal income tax return must complete and file a **Form PIT-1, New Mexico Personal Income Tax Return**. Depending on your residency status and your own personal situation, other forms and schedules may be necessary.

File Schedule PIT-S only if your qualifying dependent exemptions exceed five. The first five dependents must be entered on line 6 of 2008 Form PIT-1. Additional dependent exemptions must be entered on Schedule PIT-S.

Complete the **2008 Schedule PIT-ADJ** and attach it to Form PIT-1 if you

are required, or eligible, to make New Mexico adjustments to income.

File Schedule PIT-ADJ if you have any of the following additions to federal adjusted gross income:

- interest and dividends from federal tax-exempt bonds;
- a net operating loss;

- contributions refunded when closing a New Mexico-approved Section 529 college savings plan account, or
- certain contributions rolled out of a New Mexico-approved Section 529 college savings plan account.

File Schedule PIT-ADJ if you received any of the following income not taxable by New Mexico or if you qualify for one or more of the following deductions or exemptions:

- interest and dividend income on New Mexico state and local bonds;
- a New Mexico net operating loss carryover;
- interest income from U.S. Government securities;
- railroad retirement income not taxable by New Mexico;
- you or your spouse, or both, are members of an Indian nation, tribe, band or pueblo with income earned on the lands of that nation, tribe, band or pueblo;
- you or your spouse, or both, are age 100 or over *and* you are not dependents of another taxpayer;
- you or your spouse, or both, are age 65 or over or blind *and* your adjusted gross income is not over \$51,000 for a joint return, \$28,500 for a single taxpayer, or \$25,500 for married taxpayers filing separately;
- you have a New Mexico Medical Care Savings Account;
- you contribute to a New Mexico-approved Section 529 college savings plan;
- you had net capital gains for which you can claim a deduction of up to \$1,000, or 50% of your net capital gains, whichever is greater;
- you have military wages or salary from active duty service;
- you or your spouse -- or both -- are age 65 or over and you have unreimbursed or uncompensated medical care expenses of \$28,000 or more for yourself, your spouse or dependents;
- you, your spouse or dependents have expenses related to donating human organs for transfer to another person;
- you are a member of the New Mexico National Guard and received a reimbursement from the Service Member's Life Insurance Reimbursement Fund, or

- you received the 2005 income tax energy rebate in 2008 and are required to report all or a portion of the rebate as income on your 2008 federal income tax return.

File Schedule PIT-CR if you wish to claim any of the following non-refundable credits:

- Cultural Property Preservation Credit or Business Facility Rehabilitation Credit, for rehabilitating a historic structure or a qualified business facility;
- Credit for Welfare-to-Work Program for certain businesses, mostly located in rural counties, that qualified for federal jobs credit prior to January 1, 2008, also may be eligible for carry forward credit for the New Mexico Welfare-to-Work Program.
- Rural Job Tax Credit for employers who create additional jobs in specific areas;
- Technology Jobs Tax Credit for expenses in conducting qualified research and development;
- Credit for Electronic Card-Reading Equipment purchased by businesses for age verification;
- Job Mentorship Tax Credit for employing youth participating in a school-sanctioned, career-preparation education program;
- Land Conservation Incentives Credit for donations of land or interest in land certified as eligible for treatment as a qualified donation for conservation purposes, by the Secretary of Energy, Minerals and Natural Resources;
- Affordable Housing Tax Credit for persons who have invested in an affordable housing project approved by the Mortgage Finance Authority;
- Solar Market Development Tax Credit for individuals who have purchased and installed certain qualified photovoltaic or solar thermal systems in their residence, business or agricultural enterprise;
- Blended Biodiesel Fuel Tax Credit for companies that blend and distribute motor fuels containing at least 2% biodiesel;
- Sustainable Building Tax Credit for building or renovating residential or commercial buildings into sustainable buildings;

- Angel Investment Credit for certain qualifying investments in high-technology or manufacturing businesses;
- Rural Health Care Practitioners Tax Credit for health care practitioners who provide health care in an approved rural health care underserved area, or
- Agricultural Water Conservation Tax Credit for expenses incurred for eligible improvements in irrigation systems or water management methods used to produce agricultural products, harvest or grow trees or sustain livestock.

The **PIT-RC, Rebate and Credit Schedule** is a separate schedule used by Form PIT-1 filers to claim any of the following refundable credits:

- Low Income Comprehensive Tax Rebate;
- Property Tax Rebate (for low-income persons 65 or older);
- Additional Low Income Property Tax Rebate for Los Alamos County residents;
- Child Day Care Credit;
- Refundable Medical Care Credit for persons 65 years of age or older;
- Film Production Tax Credit;
- Working Families Tax Credit for persons qualifying for the Federal Earned Income Tax Credit;
- Special Needs Adopted Child Tax Credit, or
- Renewable Energy Production Tax Credit.

The **PIT-B, Allocation and Apportionment Schedule** is filed with Form PIT-1 to allocate and apportion income from sources (employment, business or property) inside and outside New Mexico.

The **PIT-D, Voluntary Contributions Form** must be attached to Form PIT-1 if you wish to contribute to one or more of the voluntary contribution funds from an overpayment on your return.

New Mexico and Federal Extension of Time to File. Complete line 3 of Form PIT-1 if you have an approved state or federal extension. Please DO NOT attach a copy of a federal extension request that is automatically

granted, or a copy of an approved state extension. See also *Extension of Time to File* on page 10 of these instructions. If the Internal Revenue Service grants an additional extension, attach a copy of the approved additional federal extension.

If you qualify for a federal or state extension for military personnel deployed in a combat zone, special instructions and backup are required. See publication FYI-311, *Military Extensions for New Mexico Personal Income Tax*, for details.

If you qualify for a special federal extension, you should refer to the Department web page to determine whether New Mexico offers a similar extension and how you may take the extension.

PIT-PV Payment Voucher. If your return shows a balance due and you choose to pay by mail or delivery to one of our local offices, you will need to complete Form PIT-PV and include it with your check or money order. Also include Form PIT-PV when submitting your payment with your return. *Write your social security number and the tax year on all checks and money orders.*

PIT-ES Estimated Income Tax Payment Voucher. To make estimated tax payments by mail or delivery, you will need to complete Form PIT-ES. Include it with your check or money order. Please do NOT combine payments for tax due on your 2008 return and payments of your 2009 estimated income tax liability on the same check or money order. If you combine payments, it is likely they will not be credited to your account in the way you would wish.

Please ensure you are using the correct form (PIT-PV or PIT-ES) and that the form indicates the correct tax year to which you wish the payment to be applied. For example: When filing the fourth quarter estimated tax payment for tax year 2008, which is due January 15, 2009, ensure the tax year indicates 2008 on the PIT-ES payment voucher.

The total amount you must pay for tax year 2009 through withholding and estimated tax is the lesser of:

1. 90% of the net New Mexico income tax shown on your tax year 2009 return, **or**
2. 100% of the net New Mexico income tax shown on your tax year 2008 return filed in 2009. If you did not file a 2008 return or your 2008 return did not cover a full 12 months, you must pay 90% of the tax shown on your tax year 2009 return through withholding and estimated tax to avoid penalty.

You do not have to pay estimated tax if you expect to owe less than \$500 after deducting tax withheld, or you are a first-year resident.

For more information, see the instructions for PIT-ES, *Estimated Income Tax Payment Voucher*.

Amended Returns

Any change to New Mexico taxable income, credits or rebates, and changes to federal taxable income require an amended New Mexico personal income tax return for the same year. For tax years beginning on or after January 1, 2008, but not after December 31, 2008, an amended return must be filed on **Form 2008 PIT-X**. If the New Mexico amended return reports changes as the result of filing an amended federal return, attach copies of the applicable federal forms and schedules. In all cases, indicate the reason for amending the return on page 2, Form PIT-X. NOTE: The law requires an amended New Mexico return to be filed within 90 days of the date an adjustment to your federal return becomes final.

For tax years beginning on a date during the 2005, 2006 or 2007, calendar year, an amended return must be filed on **Form 2005 PIT-X, Form 2006 PIT-X or Form 2007 PIT-X**, respectively. For tax years beginning prior to January 1, 2005, file amended returns using the form for the appropriate tax year. Mark the "amended" checkbox or write "amended" at the top of the form if no checkbox is present on the form. For tax years prior to 2005, **do not file**

an amended return on Form PIT-X even if the instructions for the tax year indicate the PIT-X should be filed. The Department cannot accept a return filed on Form PIT-X for a year that began prior to January 1, 2005.

When completing an amended return, please follow these instructions carefully.

Attach schedules PIT-S, PIT-ADJ, PIT-RC, PIT-B, PIT-CR or PIT-D even if the amounts did not change. You do not need to file forms W-2 and similar information forms unless you are amending your New Mexico return to change the amount of withholding reported.

Other Forms or Attachments You May Have to File

All annual information returns and withholding statements. Attach to your PIT-1 a copy of **all annual information returns and withholding statements** showing income and New Mexico income tax withheld. Include all federal Form(s) W-2, 1099, 1099-MISC, 1099-R, W-2G, and New Mexico Form(s) W-K, *New Mexico Income and Withholding from Pass-Through Entities*, and RPD-41285, *Annual Statement of Withholding of Oil and Gas Proceeds*.

The beneficiary of a simple trust or a grantor trust may claim tax withheld on behalf of the simple or grantor trust by attaching a copy of **Form WT, Statement of Certain Trust Distributions of Withholding From Oil and Gas Proceeds**. The grantor trust or simple trust may distribute its withholding of oil and gas proceeds to its beneficiaries by reporting the withholding paid to the Department, and issuing New Mexico Form WT to the beneficiary.

A copy of your federal non-resident return. If you are filing a joint non-resident federal return, and your spouse is not required to have an SSN or ITIN, you must submit a copy of your **federal non-resident return**.

Attach Federal Form(s) 8886, if required. Mark the checkbox on Form PIT-1, line 4 and attach a copy

of federal Form(s) 8886, *Reportable Transaction Disclosure Statement*, if it is required to be attached with your federal personal income tax return. See page 17 of the instructions for Form PIT-1 for details.

A Statement of Division of Community and Separate Income and Payments. Attach a statement reflecting a correct division of community and separate income and payments if:

- you are married and filing separate returns,
- you divorced during 2008,
- you or your spouse, but not both, may claim the exemption for income of persons 100 years or older, or
- you or your spouse, but not both, is a resident of a community property state,

and your income and payments are not evenly distributed.

Community property states are: New Mexico, Arizona, California, Idaho, Louisiana, Nevada, Texas, Washington and Wisconsin.

A copy of a **death certificate** or other proof of death must accompany the PIT-1 return when a refund is due and the primary taxpayer or the spouse died during the tax year.

Form RPD-41083, Affidavit to Obtain Refund of New Mexico Tax Due a Deceased Taxpayer, is used to claim a refund for a deceased taxpayer when the refund is paid to the order of a person other than the surviving spouse or the estate of the deceased. A copy of a death certificate or other proof of death must be attached.

In the first year in which a taxpayer claims a credit for a Special Needs Adoption, attach **Certification from the Human Services Department or a licensed child placement agency** that the adopted child is under eighteen years of age and meets the definition of a "difficult-to-place-child" as defined in the Adoption Act, (Subsection B of Section 32A-5-44 NMSA 1978) and the classification is based on physical or mental impairment or emotional disturbance that is at least moderately disabling.

If you have an unused **New Mexico net operating loss carry-forward** amount from a previous year, attach a schedule to your return showing the tax year when each New Mexico net operating loss occurred. The schedule also should list each loss for each tax year for which it was carried forward, including 2008.

Attach **Form PIT-4, Preservation of Cultural Properties Credit**, and related **Historic Preservation Division Certification** to claim the **Cultural Property Preservation Credit** on Schedule PIT-CR.

Form PIT-5, Qualified Business Facility Rehabilitation Credit, is needed to claim the **Business Facility Rehabilitation Credit** for building renovations within New Mexico enterprise zones.

Attach **Certification from the New Mexico Department of Workforce Solutions** to claim the **Credit for Welfare-to-Work Program**.

Rural Job Tax Credit requires the *Rural Job Tax Credit Claim Form*, **RPD-41243**.

Technology Jobs Tax Credit requires the *Technology Jobs Tax Credit Claim Form*, **RPD-41244**.

Credit for Electronic Card-Reading Equipment requires certification by the taxpayer. Complete **Form RPD-41246, Income Tax Credit for Electronic Card Reader Statement**.

Job Mentorship Tax Credit requires **Form RPD-41281, Job Mentorship Tax Credit Claim Form**, and a **Form RPD-41280, Job Mentorship Tax Credit Certificate**, for each qualified student the taxpayer employed during the tax year.

To claim the **Land Conservation Incentives Credit**, attach **Form RPD-41282, Land Conservation Incentives Tax Credit Claim Form**, and the **letter received from the Energy, Minerals and Natural Resources Department** certifying treatment as a qualified donation.

The **Affordable Housing Tax Credit**

requires **Form RPD-41301, Affordable Housing Tax Credit Claim Form**, and a **copy of the voucher issued by the Mortgage Finance Authority**.

The **Solar Market Development Tax Credit** requires **Form RPD-41317, Solar Market Development Tax Credit Claim Form**.

The **Blended Biodiesel Fuel Tax Credit** requires **Form RPD-41340, Blended Biodiesel Fuel Tax Credit Claim Form**.

The **Sustainable Building Tax Credit** requires **Form RPD-41329, Sustainable Building Tax Credit Claim Form**.

The **Angel Investment Credit** requires **Form RPD-41320, Angel Investment Credit Claim Form**.

The **Rural Health Care Practitioners Tax Credit** requires **Form RPD-41326, Rural Health Care Practitioner Tax Credit Claim Form**.

The **Agricultural Water Conservation Tax Credit** requires **Form RPD-41319, Agricultural Water Conservation Tax Credit Claim Form**.

The **Film Production Tax Credit** is reported on Schedule PIT-RC and requires **Form RPD-41228, Film Production Tax Credit Claim Form**.

The **Renewable Energy Production Tax Credit** is reported on Schedule PIT-RC and requires **Form RPD-41227, Renewable Energy Production Tax Credit Claim Form**.

If you claim the **additional low-income property tax rebate for Los Alamos County residents** and the address on your Form PIT-1 is not a Los Alamos County address, provide a copy of your **property tax statement** for the Los Alamos County property.

To claim the **New Mexico Child Day Care Credit** on Schedule PIT-RC, submit a copy of the **Caregiver Worksheet** and **Form PIT-CG, Caregiver's Statement**.

Attach **2008 Form RPD-41272, 2008 Calculation of Estimated Personal**

Income Tax Underpayment Penalty, if you qualify for and have elected to use **an alternative method of computing penalty on estimated payments**, and you marked the box on line 29, Form PIT-1.

Attach **other states' forms** only when claiming credit for taxes paid to another state on Form PIT-1 by a New Mexico resident, first-year resident or part-year resident on income taxable in **both** New Mexico and another state.

Tax Credit for Certain Venture Capital Investments. If your federal adjusted gross income includes a "qualified diversifying business net capital gain" from the sale of "qualified diversifying business stock" on or after July 1, 2000, and you are in full compliance with all provisions of the New Mexico Venture Capital Investment Act, contact (505) 827-1746 for details on claiming the tax credit allowed by that Act.

Form PIT-110, *Adjustments to New Mexico Income Worksheet*, is for a non-resident whose job is located in this state but requires temporary assignment outside New Mexico.

Schedule CC, *Alternative Tax Schedule*, is for non-residents who qualify to pay tax using an Alternative Tax Method.

Form PIT-8453, *2008 Individual Income Tax Declaration for Electronic Filing and Transmittal*. An individual, a paid tax preparer, an Electronic Return Originator (ERO) or other third-party transmitter, who electronically transmits a New Mexico personal income tax return using a tax software program either on a personal computer or through the New Mexico web site (PIT-NET), must complete Form PIT-8453 and maintain in his records

the taxpayer's signature(s).

Generally, Form PIT-8453 does not need to be sent to the Department, but if the return generates a refund of \$9,500 or more, or certain additional paper schedules or attachments are required, a copy of Form PIT-8453 must be submitted to the Department. If you must submit Form PIT-8453 to the Department, Form PIT-1 and Schedules PIT-S, PIT-ADJ, PIT-RC, PIT-B, PIT-D and PIT-CR should not be included. Form PIT-8453 authorizes the electronic transmission of the tax return, authenticates the electronic portion of the return and provides a transmittal for additional supporting documentation.

See the instructions to Form PIT-8453 to determine when the PIT-8453 must be submitted to the Department. In general, if the document is included in *Other Forms or Attachments You May Have to File*, beginning on page 7 of these instructions, you will need to submit the paper documentation with Form PIT-8453 to the Department. PIT-NET will prompt you when to submit Form PIT-8453 and supporting documentation.

Important: If you must submit Form PIT-8453, submit the form and required attachments to:

Taxation Revenue Department
P.O. Box 5418
Santa Fe, NM 87504-5418

Electronic Filing Mandate. Paid tax preparers who file more than 25 New Mexico personal income tax returns must ensure that each return is filed using Department-approved electronic media, unless the taxpayer whose return is being filed requests on Form RPD-41338 that the return is filed using another Department-approved

method. Tax preparers may be assessed five dollars for each return they prepare if the return is not electronically filed. An electronically filed return includes a return that has a 2D barcode on the second page of Form PIT-1.

To avoid the penalty the return must be electronically filed **OR** a signed **Form RPD-41338, 2008 Taxpayer Waiver For Preparer's Electronic Filing Requirement**, must be kept on file by the paid tax preparer **and** the checkbox in the "Paid Preparer's Use Only" section of Form PIT-1 must be marked.

Form RPD-41338, 2008 Taxpayer Waiver For Preparer's Electronic Filing Requirement, is used when the taxpayer does not want the preparer to file their return by Department-approved electronic media. To avoid the penalty of five dollars per return imposed on the paid tax return preparer, the tax preparer must keep this document on file and mark the checkbox in the "Paid Preparer's Use Only" section on Form PIT-1.

The requirement to ensure the return is filed by Department-approved electronic media applies only to 2008 New Mexico personal income tax returns filed in calendar year 2009. See the instructions for the "Paid Preparer's Use Only" section in these instructions for more details on this new requirement.

Federal Forms and Schedules. The Department may require you to furnish a true and correct copy of your federal income tax return and attachments.

WHEN AND WHERE TO FILE AND PAY

When and Where to File

File your return as soon as you have all the necessary information, but not later than the filing deadline of **APRIL 15, 2009**. If you file or pay late, you may have to pay penalties and interest.

See *Penalties and Interest* on page 11. The due date for fiscal-year taxpayers is the 15th day of the fourth month following the close of their fiscal year.

If you file **and** pay your tax electronically through our web site, a personal

computer or a tax professional, your filing deadline is **APRIL 30, 2009**. To avoid penalty or interest you must file your return **and** pay your tax electronically. Your electronically filed return and payment of tax due must be transmitted on or before April 30,

2009. The electronically filed return and electronic payment may be made separately to qualify. See *Filing Electronically* on page 4 and *Making Payment Through the Internet* below for a description of electronic filing and payment methods.

Please note that the April 15 deadline applies unless both the return and the payment are made electronically.

For a faster refund file your return electronically.

Mail refund returns and returns without a payment attached to:

**Taxation and Revenue Department
P.O. Box 25122
Santa Fe, NM 87504-5122**

Mail returns with a payment attached to:

**Taxation and Revenue Department
P.O. Box 8390
Santa Fe, NM 87504-8390**

A mailed New Mexico income tax return and tax payment are timely if the United States Postal Service postmark on the envelope bears a date on or before the due date. If the due date falls on a Saturday, Sunday, state or national legal holiday, the tax return is timely when the postmark bears the date of the next business day. Delivery through a private delivery service is timely if the date recorded or marked by the private delivery service is on or before the due date.

When and Where to Pay

Making Payment by Check. Whether you submit your payment with or without your tax return, complete PIT-PV, *Income Tax Payment Voucher*. Write your social security number and "2008 PIT-1" on your check or money order. Make the check or money order payable to New Mexico Taxation and Revenue Department.

If you make an estimated payment, complete PIT-ES, *Estimated Income Tax Payment Voucher*. Write your social security number and "PIT-ES" on the check or money order. **Important:**

The PIT-ES and the check or money order must indicate the correct tax year that the estimated payment should be applied to.

Separating Payments of Tax Due and Estimated Payments. Please DO NOT combine payments for tax due on your 2008 return and payments for your 2009 estimated income tax liability on the same check or money order. If you combine payments, it is likely they will not be credited to your account in the way you would wish.

Mailing Address for Payments. When mailing a payment with a return, follow the instructions for mailing returns in the previous section. If mailing the payment separately, mail payment and PIT-ES, *Estimated Income Tax Payment Voucher*, or payment and PIT-PV, *Income Tax Payment Voucher*, to the following post office box.

Mail PIT-ES and PIT-PV payments to:

**Taxation and Revenue Department
P.O. Box 8390
Santa Fe, NM 87504-8390**

Making Payment Through the Internet. Using PIT-NET, you may pay by electronic check at **no charge**. Your electronic check authorizes the Taxation and Revenue Department to debit your checking account in the amount and on the date you specify. Directions are available on the web site. Visit www.tax.state.nm.us, click on *E-services*.

You may also make tax payments via credit card. *A convenience fee of 2.49% is required to use this service.* The fee is charged to reimburse the Department for charges paid to the credit card company.

Extension of Time to File

New Mexico recognizes and accepts an Internal Revenue Service automatic extension of time to file. If you have obtained the federal six-month automatic extension by filing Form 4868, *Application for Automatic Extension of Time to File U.S. Individual Income Tax Return* for tax year 2008, you have six

months (through October 15th) to file your New Mexico return. Beyond the six months, however, you are required to obtain approval through the state.

If you expect to file your federal return by the original due date or by the six month automatic extension of time to file allowed by the IRS, but need additional time to file your New Mexico return, ask for an extension of time by filing New Mexico Form RPD-41096, *Extension of Time to File*. File Form RPD-41096 on or before the April 15, 2009 due date. You do not need to attach an approved state extension to your return.

Special instructions and backup are required if you are granted a federal extension or state extension for military personnel deployed in a combat zone. See Publication FYI-311, *Military Extensions for New Mexico Personal Income Tax*, for details. Mark in red at the top of the return the type of extension for which you qualify. Mark the extension checkbox on line 3 of Form PIT-1 and enter the date the extension expires. The state extension requires you to attach **Form DD 214**.

If you qualify for a special federal extension, you should refer to the Department web page to determine whether New Mexico offers a similar extension and how you may take the extension.

An extension of time to file your return does NOT extend the time to pay. If tax is due, interest continues to accrue. Therefore, if you expect to owe more tax when you file your return, the best policy is to make a payment using a payment voucher and avoid the accrual of interest on that amount.

Please make sure you put the correct tax year on both the PIT-PV Income Tax Payment Voucher and your check or money order. This minimizes the chance that your payment will be credited to the incorrect tax period. Report the amount of any payment(s) made towards the tax due when an extension has been filed, on line 25 of Form PIT-1 when the return is actually filed.

PENALTIES AND INTEREST

Effective January 1, 2008, House Bill 436, Sections 1 through 6, amended the penalty and interest provisions in the Tax Administration Act. Interest charged on underpayments of tax and paid on overpayments is reduced from 15 percent per year to the rate established for individual income tax purposes by the U.S. Internal Revenue Code (IRC). During the last several years the IRC annual interest rate has ranged from a high of 9 percent to a low of 4 percent. The House Bill also increased the maximum penalty for failure to pay tax or to file a return due to negligence or disregard of Department rules or regulations. The maximum penalty is increased from 10 percent to 20 percent of the tax due.

Interest:

Interest accrues on income tax that is not paid on or before the due date of your return even if you receive an extension of time to file. *Interest is a charge for the use of money and by law cannot be waived.* Prior to January 1, 2008, interest is calculated at the statutory rate of 15% per year, computed on a daily basis. Beginning January 1, 2008, interest is computed on a daily basis, at the rate established for individual income tax purposes by the U.S. Internal Revenue Code (IRC).

The IRC rate changes quarterly. The IRC rate for each quarter is announced by the Internal Revenue Service in the last month of the previous quarter. The annual rate for the last quarter of 2008 is 6% and the daily rate is 0.016%. At the time these instructions were sent to the printer, the rate for the first quarter of 2009 had not been announced. The annual and daily interest rates for each quarter will be posted on our web site at www.tax.state.nm.us.

Important: You do not need to figure the amount of penalty or interest due on your return. Once your principal tax liability is paid, penalty and interest stops accruing. The Department will bill you for any penalty or interest due.

If you are due a refund, you may be entitled to interest on your overpayment at the same rate charged for

underpayments, but only under certain conditions. The Department shall pay no interest if the refund is made within 55 days of the date of the claim for refund, if the interest is less than \$1.00, or if your return cannot be processed. For processing to take place, your return must show your name, address, social security number, signature and the information needed to mathematically verify your tax liability.

Negligence Penalty for Late Filing or Late Payment. If you file late and owe tax, or if you do not pay your tax when due, you will receive a penalty of 2% of the tax due for each month or part of a month the return is not filed or the tax is not paid, to a maximum of 20%. NOTE: Prior to January 1, 2008, penalty could not exceed 10%. Penalty on any principal tax outstanding after January 1, 2008 will continue to accrue at a rate of 2% per month or part of a month the return is not filed or the tax is not paid, to the new maximum of 20%.

This penalty applies when your failure to file or pay is because of negligence or disregard of the rules and regulations but without intent to defraud.

Fraudulent Returns.

Civil Penalties:

In the case of failure to pay when due any amount of required tax with willful intent to evade or defeat any tax, a civil penalty of 50% of the tax due will be charged. The minimum penalty is \$25.00.

Any person who willfully causes or attempts to cause the evasion of another person's obligation to report and pay tax may be assessed a civil penalty in an amount equal to the amount of the tax, penalty and interest attempted to be evaded.

Criminal Penalties:

A person who willfully attempts to evade or defeat any tax or the payment of the tax is guilty of a felony and upon conviction may be fined between \$1,000 and \$10,000, or imprisoned between one to five years, or both, together with costs of prosecution. This

penalty is in addition to other penalties provided by law.

Any person who willfully, with intent to evade or defeat the payment or collection of any tax:

- falsifies any return, statement or other document,
 - willfully assists, procures, advises or counsels the filing of a false return, statement, or document,
 - files any return electronically, knowing the information on the return is not true and correct as to every material matter, or
 - removes, conceals or releases or aids in the removal, concealment or release of any property on which levy is authorized by the Department
- is guilty of a felony and subject to criminal penalties. Upon conviction, criminal penalty may be imposed of not more than \$5,000 or imprisonment of not less than six months or more than three years, or both, together with costs of prosecution.

Penalty for Underpayment of Estimated Tax. If your tax liability for 2008 is \$500 or more, and your 2008 withholding and estimated tax payments do not equal the "Required Annual Payment" of (1) 100% of the prior-year tax liability, or (2) 90% of the current-year tax liability, you may be subject to penalty. The law provides some exceptions to the penalty. For more information on exceptions, see instructions for PIT-ES.

The Department will calculate and assess the penalty if you have not made the required annual payment. You may provide additional information if you believe the penalty to be in error.

Penalty for underpayment of estimated tax accrues at the same rate as interest on an underpayment of tax. The penalty for underpayment of estimated tax may exceed the maximum 20% that applies to underpayment penalty. Beginning January 1, 2008, penalty on underpayment of estimated tax is computed on a daily basis, at the rate established for individual income tax purposes by the U.S. Internal Revenue

Code (IRC). See *Interest* on the previous page.

Returned Check Penalty. A check that is not paid by a financial institution does not constitute payment. A penalty of \$20 will be assessed for a bad check in addition to other penalties that may apply to late payment.

Failure of Paid Preparers to Conform to Certain Requirements. A penalty of \$25 per return or claim for refund will be assessed a paid preparer who:

- fails to sign the tax return or claim for refund, or
- fails to include the identifying number of the paid preparer.

The law provides for a penalty of \$500 per item against any tax return preparer who endorses or otherwise negotiates, either directly or through an agent, any refund check issued to a taxpayer.

New: Tax Preparers Requirement to Ensure Returns are Filed Electronically. Paid tax practitioners who prepare more than twenty-five New Mexico personal income tax returns must ensure that each return is submitted by Department-approved electronic media, unless the taxpayer whose return is being prepared requests otherwise. A \$5 penalty per return is assessed for personal income tax preparers who fail to comply with this requirement.

To avoid a penalty of five dollars per return, imposed on the paid tax return preparer, the tax preparer must ensure the return will be filed by Department-approved electronic media OR keep a signed Form RPD-41338, *Taxpayer Waiver For Preparers Electronic Filing Requirement*, on file **and** mark the checkbox in the "Paid Preparer's Use Only" section on Form PIT-1.

The requirement to ensure the return is filed by Department-approved electronic media applies only to 2008 New Mexico personal income tax returns filed in calendar year 2009. See the instructions for the "Paid Preparer's Use Only" section in these instructions for more details on this requirement.

CONTACTING THE DEPARTMENT

Information and Forms.

Forms and instructions are available on our Internet home page. Our address is: www.tax.state.nm.us

New Online Services Available.

TAP, Taxpayer Access Point, is a secure online resource that allows taxpayers to:

- pay existing tax liabilities online,
- check the status of a refund,
- change an address, and
- manage your tax accounts online.

Currently TAP allows access to thirteen tax programs including the personal income tax and gross receipts tax programs. On our home page, select the Taxpayer Access Point (TAP) link.

E-Mail and Telephone Correspondence.

Direct questions about the return, instructions, a submitted return or your refund to TRD-TaxReturnHelp@state.nm.us or call (505) 827-0827 or your local district office.

Direct general questions about New Mexico taxes to Policy.Office@state.nm.us or call (505) 827-0908.

Order forms by e-mailing us at Policy.Office@state.nm.us or call (505) 827-2206.

If you want to write, please address your letter to:

Taxpayer Information & Policy Office
Taxation and Revenue Department
P. O. Box 630
Santa Fe, NM 87504-0630

If you use the address above to order forms or write for information after April 1, you should not rely on receiving the forms or a response to your correspondence before April 15.

Need Help with Your Return?

Contact your local district office or call (505) 827-0827 for general assistance with filing your return and for tax help.

Assistance in preparing your tax return may be available from:

- Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE). Volunteers give free or low-cost help to lower-income, elderly, and disabled individuals. Watch for VITA and TCE information in your community for the site nearest you.
- Some senior citizens' centers. Contact the center for dates and times.
- Some social service agencies. They either provide assistance or direct you to other free or low-cost tax preparation assistance programs.
- Department district offices. They offer tax information and forms, and can direct the low-income and elderly to local tax-preparation assistance.
- Software preparation services or a tax preparer.

Visit our web site for information on tax assistance for senior citizens and low-income filers.

YOUR RIGHTS UNDER THE TAX LAW

The Tax Administration Act governs how the Department administers the Income Tax Act and gives you specific rights and responsibilities.

Keep accurate tax records and stay current with changes in the tax law to help avoid tax problems. These instructions and other Department publications contain information that can help you do both.

While most tax problems can be resolved informally, it is important to understand that you must exercise certain rights provided to you under law within specific timeframes. If an adjustment is made to your return, you will

receive a notice explaining the adjustment with a description of procedures to use if you disagree.

At any time after filing your return, the return may be subject to further review, verification or correction. If your tax return is adjusted or there is an assessment of additional tax, you will receive a copy of publication *FYI-406, Your Rights Under the Tax Laws*. The publication outlines your rights and obligations and describes in detail how to dispute a Department action through either the Claim for Refund procedure or the Protest procedure. Read these

procedures carefully to ensure you take the necessary steps to protect your rights.

Publication FYI-406 is available by contacting Taxpayer Information by e-mail at policy.office@state.nm.us or calling (505) 827-0951. It is also available on the Department's Internet home page at:

www.tax.state.nm.us

Click on "publications".

NOTE: The taxpayer may protest the Department's inaction on a claim for refund. In the event the Department

takes no action on a claim for refund within 120 days, you may protest, bring suit, or re-file your claim within three years from the end of the calendar year in which the tax was due or in which you paid a Department assessment.

If you do not hear from the Department within 120 days, you have 90 days in which to file a protest. You must act if you have not heard from TRD within 120 days. Sec. 7-1-26 NMSA 1978 stops the Department from approving or denying your claim when 210 days have passed without action by you or the Department.

NOTE: When to Call About Your Refund. Generally, electronically filed returns claiming a refund are processed within two to four weeks. A paper return received in the Department early in the tax season takes six to eight weeks. If you file a paper return after March 15, you may not receive your refund for up to 12 weeks. When inquiring about your refund, please allow sufficient time for the Department to process your refund claim.

The Status of Your Refund is Now Available Electronically through the Department's web site at www.tax.state.nm.us. Select the Taxpayer Access Point (TAP) link. You will need your social security number(s) and the amount of refund due.

If you have to call to ask where your refund check is, please wait until sufficient time has passed for the Department to process your refund claim, then call (505) 827-0827. Have a copy of your tax return available when you call or visit us on the web.

ABOUT YOUR TAX RETURN INFORMATION

KEEP COPIES OF YOUR TAX RECORDS AND RETURNS. *Please remember to keep a copy of your completed income tax return for at least ten years after you file it.* Keep copies of books, records, schedules, statements or other documents. The Department may ask you to provide copies of these records after you have filed your income tax return.

Privacy Notification

The New Mexico Taxation and Revenue Department requires taxpayers to furnish social security numbers as a means of taxpayer identification. All information supplied electronically by taxpayers is protected using encryption and fire walls. Taxpayer information on returns is protected in accordance

with the confidentiality provisions of the Tax Administration Act (Section 7-1-8 NMSA 1978).

The rights of the Taxation and Revenue Department and the Secretary of the Department to collect and maintain personal information, including mandatory disclosure of social security numbers in the manner required by tax regulations, instructions and forms, are in Section 7-1-12 NMSA 1978 and 3.1.1.15 NMAC.

The Taxation and Revenue Department uses this information primarily to determine and administer state tax liabilities. The Department also uses the information for certain tax-offset and exchange-of-tax information authorized by law, and for any other purpose authorized by law.

1099G and 1099INT Information Returns

Federal law requires New Mexico to report to the Internal Revenue Service all New Mexico income tax refunds and interest paid to taxpayers on those refunds. New Mexico is required to report the same information to you on a Form 1099.

The amount reported on Forms 1099G and 1099INT may or may not be federally taxable to you. *Consult your tax preparer or the Internal Revenue Service to determine if you should report the amount as income for federal income tax purposes.*

Audit Selection

The method you use to file, or your

request for an extension of time to file, DOES NOT increase your chances of being selected for audit. Returns for a particular tax year are not selected for audit until after the filing period closes. Each return faces an equally random chance of selection.

Federal/State Tax Agreement

Under authority of federal and New Mexico laws, the New Mexico Taxation and Revenue Department and the Internal Revenue Service are parties to a federal/state agreement for the mutual exchange of tax information.

Every year New Mexico participates in a program which matches New Mexico

return information with federal return information. If you receive notice from the New Mexico Taxation and Revenue Department telling you of a difference between the state and federal information or a non-filed return, it is to your advantage to respond promptly and provide any information you have to clear your record of the difference. If you do not respond within 60 days, we will presume the notice to be correct. We will issue an assessment of tax due for the amount of underpaid tax plus penalty and interest.

Treasury Offset Program

If an assessment of New Mexico Personal Income Tax is established, the

New Mexico Taxation and Revenue Department may submit your unpaid debt to the Treasury Offset Program. This "offset" is authorized by federal law and allows the U.S. Department of the Treasury to reduce or withhold any of your federal income tax refund by the amount of your debt.

Outside Collection Agencies

The Department is authorized to contract with outside collection agencies for collection of tax obligations that are at least 120 days past due. Contracted outside collection agencies are subject to the same privacy laws and requirements as the Department.

STEPS FOR PREPARING YOUR RETURN

Prepare your federal return first.

Much of the information on your New Mexico return will be the same. Even if you are not required to file a federal return, complete a sample federal return *before* you prepare your New Mexico return.

Most New Mexico income tax laws are based on federal income tax laws. In these instructions we point out only the differences and explain those items unique to New Mexico law. No instructions are given for self-explanatory items; for example, when a line requires addition or subtraction.

NOTE: References to line numbers on federal forms are provided as a convenience. They are based on information available to the Department at the time we deliver New Mexico forms to the printing contractor. Use caution. The Department is not responsible for changes or errors in these references.

STEP 1

Get all forms and publications you need.

If you need forms or additional instructions, see *Contacting the Department* on page 12.

STEP 2

Get your tax records together.

Name and Social Security Number.

Enter your name and social security number (or valid federal individual taxpayer identification number) on all forms and correspondence you send to TRD. We cannot accept a return without a valid identification number. Resident or non-resident foreign nationals who do not have and are not eligible to obtain a social security number may obtain a federal individual taxpayer identification number (ITIN) by filing Form W-7 with the Internal Revenue Service. Use this ITIN instead of a social security number. Contact the Internal Revenue Service for forms and information on the ITIN program or visit the IRS web site at www.irs.gov. If you are filing a joint non-resident federal return and your spouse is not required to have an SSN or ITIN, you must submit a copy of your federal non-resident return.

If you received a salary or wages, gather all 2008 wage and tax statements. If you have not received your wage and tax statements by February 15 or if the form you receive is incorrect, contact your employer. If your employer withheld New Mexico taxes in error, we require a written explanation from your employer.

If you received an annuity, pension, retirement pay, IRA distribution, distribution from a New Mexico-approved qualified state tuition program, Railroad Retirement or sick pay or social security benefits in 2008, whether or not income tax was withheld on the payments, gather all federal Form(s) 1099-R, RRB1099 and 1099-SSA. If you did not have tax withheld but would like to in the future, contact the payor. See *Withholding on Certain Government Pensions* on page 15.

If you had tax withheld from oil and gas proceeds from an oil or gas well located in New Mexico, obtain a copy of your federal Form(s) 1099-MISC, or Form RPD-41285, *Annual Statement of Withholding of Oil and Gas Proceeds*.

If you are a beneficiary of a simple or grantor trust, and tax withheld on oil and gas proceeds is passed from the trust to you, you must attach Form WT, *Statement of Certain Trust Distributions of Withholding From Oil and Gas Proceeds*. The form must be issued to the taxpayer by the trust.

If you had gambling or lottery winnings, whether or not income tax was withheld on the winnings, you need your 2008 federal Form W-2G or a record of winnings not required to be reported on a Form W-2G. If your win-

nings were offset by losses reported in your itemized deductions on your federal return, you may be asked to provide documentation to substantiate the deduction.

If you received public assistance, Temporary Assistance to Needy Families (TANF) or a similar program, welfare benefits or Supplemental Security Income (SSI) during 2008, you will need records of the amounts.

If you received any other income in 2008, whether or not taxable, such as an insurance settlement, a scholarship or grant, VA benefits, income from an inheritance or trust, gifts of cash or marketable property, alimony, separate maintenance or child support, gather your records of the amounts.

To claim the Property Tax Rebate for persons age 65 or older, or the Low Income Property Tax Rebate for Los Alamos County residents, you need records of the property tax billed for 2008 and/or the rent paid on your

principal place of residence.

To claim the Child Day Care Credit you need a *Caregiver's Statement*, Form PIT-CG, from each person who provided child day care during 2008.

If you paid income taxes to another state on income that also will be taxable in New Mexico, you need a copy of that state's return. Both states must claim the same income source to be eligible for the credit.

If you made New Mexico estimated tax payments during the year, you need your records of the amounts and dates of payment. If you had an overpayment from your 2007 return applied to your 2008 estimated taxes, be sure to include that amount in your total.

If you are married and filing separate returns, if you were divorced during 2008, if you are claiming the exemption for income of persons 100 years or older, or if you or your spouse - but not both - is a resident of

a community property state, *and* your income and payments are not evenly distributed, prepare and attach a statement reflecting a correct division of community and separate income and payments.

If you received a New Mexico 2005 Energy Rebate in 2008, you need records of the amount of the check.

To claim a deduction, exemption or tax credit on Schedule PIT-ADJ, PIT-CR or Schedule PIT-RC, make sure you have the appropriate records, approvals, certifications, and forms. See the instructions for the line on the schedule, or *Other Forms or Attachments You May Have to File*, on page 7 of these instructions.

STEP 3

Fill in your return.

Fill in your return using the line instructions below. Continue with **STEP 4** on page 28.

Withholding on Certain Government Pensions

Retired members of the Army, Air Force, Navy, Marines, Coast Guard, U.S. Civil Service, the National Oceanic and Atmospheric Administration, and the U.S. Public Health Service may request that New Mexico income tax be withheld from their retirement pay by contacting the appropriate retirement pay office.

U.S. Military Retirement/Annuitant Pay:

Defense Finance and Accounting Service
Tel: 1-800-321-1080

www.dod.mil/dfas

U.S. Coast Guard PSC Retiree and

Annuitant Services Branch

Tel: 1-800-772-8724

www.uscg.mil/hq/psc

(Also for retired members of the National Oceanic and Atmospheric Administration)

U.S. Public Health Service

Compensation Branch/OCCOS/HRS
5600 Fishers Lane, Room 4-50

Rockville, MD 20857

Tel: 1-800-638-8744

Tel: (301) 594-2963

All Other Fede Retirees:

U.S. Office of Personnel Management
Retirement Operations Center

Tel: 1-888-767-6738

Tel: (202) 606-0500

Tel: 1-800-878-5707 (TDD)

www.opm.gov/retire

LINE INSTRUCTIONS FOR FORM PIT-1

Filling in your tax return.

Complete all required information on your form. Failure to complete all required information will delay process-

ing your return and may cause your return to be incorrectly computed.

Please spend a moment reviewing

the items below before making your entries:

• **Round all amounts up or down**

to the nearest whole dollar. Do not enter cents. All money items on your return MUST be rounded to the nearest whole dollar. Do not enter cents. For example, enter \$10.49 as \$10 and \$10.50 as \$11;

• **Please type or print using a blue or black pen -- no pencils;**

• **Write your numbers clearly and legibly.** The forms contain boxes to guide you in making your handwritten entries. Clear, legible printing reduces errors and lets us process your return more efficiently;

• **Do not use dollar signs (\$), decimal points (.) or any punctuation marks or symbols other than the comma (,);**

• **For a loss reported on Form PIT-1, line 7, place a minus sign (-) immediately to the left of the loss amount. Do not use brackets or parentheses.**

Example: If your federal adjusted gross income is negative \$23,742.48, your money field entry for a loss on line 7 of your Form PIT-1 should look like this:

| | |
|----------|----|
| - 23,742 | 00 |
|----------|----|

Please leave blank all spaces and boxes that do not apply to you. Do not draw lines through or across areas you have left blank.

If you received a personal income tax package, you may prefer to use one of the two blank forms as a worksheet.

Complete the top of page 1 of the Form PIT-1.

Name and Address Box.

Make sure your name(s), address and social security number(s) are legible, complete and correct.

Enter names on a joint return in the same order as on the federal return. Taxpayers filing a joint return should enter their names and social security numbers in the same order each year to avoid processing delays.

Mark the box above the name-and-address block if you moved or changed your address since your last filing.

Report Changes of Address: If you move after filing your return and you expect a refund, you should notify by mail both the post office serving your old address and the Department of your change of address. This will help in forwarding your refund or any other correspondence related to your tax return to your new address. To change your address use the TAP link on our web site or mail Form RPD-41260, *Change of Address Form*, to report a change of address. **Your original signature is mandatory for a change of address.** You do not have to submit a change of address form if the check box on your return is marked, reflecting that the address on Form PIT-1 is new or changed.

Filing Period.

All information on your return except your mailing address should be for calendar year January 1, 2008 through December 31, 2008 or for your fiscal year. If you are filing for a fiscal year, enter the month and day your tax year began, and the month and day that it ended at the top of the first page. Fiscal year filers may be required to compute tax on the taxable income in a special manner. If you are a fiscal-year filer, carefully follow the instructions for line 15 on page 22 of these instructions.

Your tax year must match the tax year of your federal return. Do not file short year returns.

LINE 1.

Social Security Number(s), Residency Status, and Deceased Taxpayer Information

Enter your name, address and social security number and the name and social security number of your spouse in exactly the same order as on your federal return. Your spouse's social security number is necessary even if you are "married filing separately".

If you -- or your spouse -- do not have a social security number (SSN), but do have an individual taxpayer identification number (ITIN) assigned by the

Internal Revenue Service, enter the ITIN in the spaces provided. If you and your spouse are filing a joint federal non-resident return, and your spouse is not required to have an SSN or an ITIN, leave the spouse's SSN blank, and attach a copy of your federal non-resident return.

You must provide your own and your spouse's social security number or individual taxpayer identification number, or a copy of a non-resident federal return, or your return is not complete and will not be processed.

Residency:

- **Resident.** New Mexico full-year residents and individuals who were physically present in New Mexico for 185 days or more during the tax year, but not first-year residents, must mark "R" in the residency status box.
- **Non-resident.** If you were physically present in New Mexico for fewer than 185 days and you were not domiciled in New Mexico during any part of the year, mark "N" in the residency status box.

New Mexico's law says every person who has income from New Mexico sources and who is required to file a federal income tax return must file a personal income tax return in New Mexico. This includes non-residents who have income from wages, rents, royalties, businesses, estates...every New Mexico source. Even foreign nationals and persons who reside in states that do not have income taxes must file here when they have a federal filing requirement and have income from any New Mexico source whatsoever.

- **First-year resident.** If you moved into New Mexico during the tax year with the intent of establishing domicile in New Mexico, mark "F" in the residency status box. You are a first-year resident whether or not you were physically present in New Mexico for fewer than 185 days during the tax year.
- **Part-year resident.** If you were physically present in New Mexico for fewer than 185 days during the tax year, and you were domiciled in

New Mexico during part of the tax year but not on the last day of the tax year, mark "P" in the residency status box.

- **Military personnel temporarily assigned to New Mexico** who have established residency outside New Mexico should enter "N".

See *Resident, Part-Year Resident, First-Year Resident and Non-resident Defined* on page 1 for more information.

Deceased Taxpayer or Spouse:

Mark the appropriate box and enter the date of death if the taxpayer or the spouse named on the return died before this return is filed. Include the month, day and year of death. Enter the claimant's name and social security number when the refund must be made payable to the order of a person other than the taxpayer or spouse. See *Representatives of Deceased Taxpayers* on page 3 for further details.

LINE 2. Exemptions

Enter the number of exemptions allowed on your federal return for yourself, your spouse if filing a joint return, and your qualifying dependents. New Mexico uses the same definitions and qualifications as the Internal Revenue Service to determine if someone is your dependent.

If you were a dependent or qualify as a dependent of another individual for federal income tax purposes, *whether or not* you were claimed as a dependent on the other person's federal return, your allowable exemption is "00".

If you file federal Form 1040EZ and neither you nor your spouse can be claimed as a dependent of another individual for federal income tax purposes, enter one exemption if filing single and two exemptions if married filing jointly. If someone can claim you (or your spouse if a joint return) on the federal return, enter zero if filing single, and one if filing a joint return. If filing joint and both you and your spouse qualify to be claimed as a dependent on another person's federal return,

your allowable exemption is "00".

LINE 3. Extension of Time to File

Put an "X" in the extension indicator box on line 3 of Form PIT-1, and enter the date the extension expires. If you were granted a federal automatic six-month extension (through October 15th) or you have received approval for a New Mexico extension, it is not necessary to attach a copy of the federal Form 4868, *Application for Automatic Extension of Time to File U.S. Individual Income Tax Return*, or New Mexico Form RPD-41096, *Extension of Time to File*.

Special instructions and backup are required if you are granted a federal extension for a period of more than six months, or a New Mexico extension for military personnel deployed in a combat zone. See *Extension of Time to File*, on page 10 of these instructions for more information.

Reminder: An extension of time to file your return DOES NOT extend the time to pay.

LINE 4. Check Box Indicating Federal Form(s) 8886 is Required to be Attached.

Put an "X" in the box if federal Form(s) 8886, *Reportable Transaction Disclosure Statement*, is required to be attached to your 2008 New Mexico Form PIT-1. If federal Form(s) 8886 is required to be attached to your 2008 federal income tax return or information return, then it is also required to be attached to your 2008 New Mexico income tax return or information return. The Internal Revenue Service requires taxpayers to appropriately disclose participation in certain "listed transactions" on tax returns. Listed transactions are those that the IRS has determined to be structured for the significant purpose of tax avoidance or evasion. See the instructions for your 2008 federal income tax return or information return, or federal Form 8886 for details.

LINE 5, BOXES 1 - 5. Filing Status

Show your filing status by marking an "X" in the box to the left of the filing status. Use the same filing status on your state return that you used on your federal return. If you did not file a federal return, use the filing status that you would have used for federal income tax purposes.

NOTE: New Mexico is a community property state. For married persons filing separately, divorced during 2008, or married persons filing joint, claiming the exemption for income of persons 100 years or older, or allocating and apportioning income in and outside New Mexico, both your New Mexico and federal returns **MUST** reflect a correct division of **community and separate income and payments**. If your income and payments are not evenly distributed, attach a copy of a statement reflecting a correct division of community and separate income and payments. Include your spouse's or former spouse's social security number on the statement. Attach the statement explaining the division of community income and payments to your Form PIT-1 even if you did not file a federal return. See Publication FYI-310, *Community Property, Divorce, Separation and your New Mexico Income Tax*, for more details.

If you put an "X" in box 3 of line 5, Filing Status, you must include your spouse's name in the address block and your spouse's social security number next to the name on line 1.

If you put an "X" in box 4 of line 5, Filing Status, enter the name of the person who qualifies you as head of household if that person is a child and not eligible to be included as a qualified dependent exemption under federal regulations.

LINE 6. Dependents

Enter the name, social security number and date of birth of each dependent reported on your federal return. If you have more than five dependents, enter the name, social security number and

date of birth of the first five qualifying dependents on line 6 of 2008 Form PIT-1 and the remaining qualifying dependents on 2008 Schedule PIT-S. Attach Schedule PIT-S to your 2008 Form PIT-1. To avoid processing delays. DO NOT use Schedule PIT-S, if you have five or fewer dependent exemptions.

Enter *only* qualifying dependent exemptions allowed on your federal return. Do not include yourself or your spouse if filing a joint return. New Mexico uses the same definitions and qualifications as the Internal Revenue Service to determine if someone is a qualified dependent. See the instructions for Federal Form 1040, 1040A or 1040EZ to determine who you may claim as a dependent exemption.

You must list your dependent's SSN and date of birth. If your dependent is not eligible to get an SSN, use the identification number required by the IRS. The IRS requires that the dependent who is not eligible for an SSN to obtain an individual taxpayer identification number (ITIN) or an adoption taxpayer identification number (ATIN). For details on how to apply, visit the IRS at www.irs.gov. If your child was born and died in 2008, enter "DIED" in column 2.

LINE 7. Federal Adjusted Gross Income

Enter the federal adjusted gross income as *reported* on your federal form:

| If you filed Federal form: | Enter the amount from: |
|-------------------------------|---------------------------|
| 1040 | Line 38 |
| 1040A | Line 22 |
| 1040EZ | Line 4 |

Royalty Income of Non-residents

Non-resident taxpayers who elect to compute tax on **gross** royalty income under \$5,000 using special procedures instead of filing a complete Form PIT-1 and the Schedule PIT-B, please see also *Royalty Income of Non-residents*, on page 2 of these instructions for completing Form PIT-1. Skip lines 7

through 13a and enter a "Y" in the box under line 15 on Form PIT-1, instead of an "R" for computing tax using the rate table, or "B" for computing tax using Schedule PIT-B. Enter your total **gross** royalty income from New Mexico sources on line 14 and follow the instructions for lines 15, 19, 20 and 22 through 36.

LINE 8. Additions to Federal Adjusted Gross Income

See the instructions for lines 1 through 4 on the 2008 Schedule PIT-ADJ if you:

- received interest and dividends from federally tax-exempt bonds;
- have a net operating loss;
- have had contributions refunded when closing a New Mexico-approved Section 529 college savings plan account, or
- have had certain contributions rolled out of a New Mexico-approved Section 529 college savings plan account.

LINE 9. Federal Deduction Amount

Enter on PIT-1 line 9 your allowable federal **itemized deductions** from Form 1040 line 40, if you itemized your deductions on your 2008 federal Form 1040, and mark checkbox 9a.

If you did not itemize your deductions, enter on Form PIT-1 line 9 the allowable federal **standard deduction** from Form 1040 line 40, or 1040A line 24.

Check box 9b only if you checked box 39c on federal Form 1040, or box 23c on federal Form 1040A, indicating that your standard deduction includes real estate taxes or a net disaster loss from a federally declared disaster. Do not check box 9b if your standard deduction does not include real estate taxes or a disaster loss.

If you donated land to private-nonprofit or public conservation agencies for conservation purposes from which you claimed **land conservation incentives** tax credit on Schedule PIT-CR and you claimed a charitable deduc-

tion for the contribution in your federal itemized deductions on your federal personal income tax return, reduce the itemized deduction amount by that charitable deduction claimed on your federal Form 1040, Schedule A.

Filers of federal Form 1040EZ should enter the amount from Form 1040EZ, line 5. That amount includes both your standard deduction and your dependency exemption, so you will not have an entry on line 10 of New Mexico Form PIT-1. See line 10 below.

LINE 10. Federal Exemption Amount

Enter on line 10 the federal exemption amount allowed, from line 42 of the federal Form 1040, or the amount from line 26 of federal Form 1040A. If you filed federal Form 1040EZ, leave line 10 blank -- your deduction for personal exemptions is included in the amount on line 9. If you are claiming an additional exemption amount for housing individuals displaced by storms, tornadoes or flooding in a Midwestern disaster area, write "Midwestern" in the space above your federal exemption amount as claimed on your federal return and attach federal Form 8914.

LINE 11. New Mexico Low- and Middle-Income Tax Exemption

A New Mexico income tax exemption is allowed for individuals who are low- and middle-income taxpayers. All taxpayers, including residents, part-year residents, first-year residents, or non-residents may claim this exemption in full. The maximum is \$2,500 for each qualified exemption for federal income tax purposes. The amount varies according to filing status and adjusted gross income. To claim the exemption, the amount on line 7, Form PIT-1 **must be equal to or less than:**

- \$36,667, if single;
- \$27,500, if married filing separate, or
- \$55,000, if married filing joint, qualified widow(er), or head of household.

Use the worksheet on page 20 of

these instructions to compute the New Mexico low- and middle-income tax exemption.

LINE 12.
Deductions/Exemptions from Federal Adjusted Gross Income

See the instructions for lines 5 through 19 on 2008 SCHEDULE PIT-ADJ if:

- you have interest income on New Mexico state and local bonds;
- you have a New Mexico net operating loss carryover;
- you have interest income from U.S. Government securities;
- you have railroad retirement income not taxable by New Mexico;
- you or your spouse, or both, are members of an Indian nation, tribe, band or pueblo and your income was earned on the lands of that nation, tribe, band or pueblo;
- you or your spouse -- or both -- are age 100 or over *and* you are not dependents of another taxpayer;
- you or your spouse -- or both -- are age 65 or over or blind and your adjusted gross income is not over \$51,000 for a joint return, \$28,500 for a single taxpayer, or \$25,500 for married taxpayers filing separately;
- you have a New Mexico Medical Care Savings account;
- you contribute to a New Mexico-approved Section 529 college savings plan;
- you have net capital gains for which you can claim a deduction of up to \$1,000, or 50% of your net capital gains, whichever is greater;
- you have military wages or salary from active duty service;
- you or your spouse -- or both -- are age 65 or over and you have unreimbursed or uncompensated medical care expenses of \$28,000 or more for yourself, your spouse or dependents;
- you, your spouse or dependents have expenses related to donating human organs for transfer to another person;
- you received a reimbursement from the New Mexico National Guard Service Member's Life Insurance Reimbursement Fund, or
- you received the 2005 income tax energy rebate in 2008 and are

required to report all or a portion of the rebate as income on your 2008 federal income tax return.

LINE 13.
Medical Care Expense Deduction

Any taxpayer who files a New Mexico PIT-1 Personal Income Tax Return, including out-of-state residents with income tax responsibility to New Mexico, may claim a deduction for medical care expenses paid during the tax year for medical care of the taxpayer, the taxpayer's spouse or a dependent. Use the worksheet on page 21 to determine your deduction amount that you enter on line 13, Form PIT-1.

Important: To claim the medical care expense deduction, both lines 13 and 13a must be completed or any medical care expense deduction will be denied.

When medical expenses are incurred for services provided by a medical doctor, osteopathic physician, dentist, podiatrist, chiropractic physician or psychologist, **the person providing the service must be licensed or certified to practice in New Mexico** or the medical expenses incurred cannot be included to compute the deduction for medical care expenses.

For purposes of the Medical Care expense deduction, you may claim only unreimbursed and uncompensated medical expenses NOT included in your itemized deduction amount on the federal Form 1040 return, Schedule A. Medical care expenses not included in the itemized deduction amount because they are part of the federal 7.5% of adjusted gross income floor amount, can be included here.

NOTE: If you or your spouse is 65 years of age or older and you paid unreimbursed and uncompensated medical care expenses over \$28,000 during the current tax year, you may *also* be eligible to claim an exemption of \$3,000 and tax credit of \$2,800. See the instructions for line 16, Schedule PIT-ADJ and line 23, Schedule PIT-RC for details.

Reimbursed and compensated insurance premiums like those paid with pre-tax dollars under cafeteria and similar benefit plans are also ineligible. Some of the expenses you may include are:

1. Amounts paid as premiums under Part B of Title XVIII of the Social Security Act (Medicare);
2. Amounts paid for a qualified long-term care insurance contract defined in Section 7702B(b) of the Internal Revenue Code, and
3. Unreimbursed insurance premiums and co-payments not deducted for federal purposes. NOTE: Premiums paid with pre-tax dollars through payroll deductions are not eligible.

For purposes of this deduction:

1. "Health Care Facility" means a hospital, outpatient facility, diagnostic and treatment center, rehabilitation center, free-standing hospice, physician's office, or other similar facility, regardless of location, where medical care is provided and which is licensed by any governmental entity;
2. "Medical Care" means the diagnosis, cure, mitigation, treatment or prevention of disease, or care for the purpose of affecting any structure or function of the body;
3. "Medical Care Expenses" means amounts paid for:
 - a. The diagnosis, cure, mitigation, treatment or prevention of disease, or care for the purpose of affecting any structure or function of the body, if **provided by a physician or in a health care facility**. Cosmetic surgery is not eligible;
 - b. Prescribed drugs or insulin, and oxygen. A "prescribed drug" is a drug or biologically active substance for use in or on humans that requires a prescription or administration by a person licensed to do so. Costs for over-the-counter drugs are not eligible. Prescribed drugs for animals are not eligible;
 - c. Qualified long-term care ser-

New Mexico Low- and Middle-Income Tax Exemption Worksheet

Complete this worksheet to determine your New Mexico Low- and Middle-Income Tax Exemption.

Do not attach this worksheet to your Form PIT-1. Maintain a copy in your records.

You are eligible to claim the New Mexico Low- and Middle-Income Tax Exemption if:

Your Filing status is:

and your federal adjusted gross income is:

| | |
|------------------------------------------|------------------|
| Single | \$36,667 or less |
| Married filing joint or surviving spouse | \$55,000 or less |
| Head of household | \$55,000 or less |
| Married filing separate | \$27,500 or less |

1. Enter the amount reported on line 7, Form PIT-1.
If your federal adjusted gross income is greater than the amount listed in the table above, for your filing status, do not complete this form, you do not qualify for this exemption.
2. If your filing status on line 5, Form PIT-1 is:
 - single, enter \$20,000;
 - married filing joint or qualified widow(er), enter \$30,000
 - head of household, enter \$30,000
 - married filing separate, enter \$15,000.
3. Subtract line 2 from line 1. If the result is a negative, enter zero here, skip line 4, and enter zero on line 5.
4. If your filing status on line 5, Form PIT-1 is:
 - single, enter 0.15;
 - married filing joint or qualified widow(er), enter 0.10
 - head of household, enter 0.10
 - married filing separate, enter 0.20
5. Multiply line 3 by line 4. Enter the result.
6. Subtract line 5 from \$2,500.
7. Enter the number of federal exemptions* reported on line 2, Form PIT-1.
8. Multiply line 6 by line 7. Enter this amount here and on line 11, Form PIT-1.

| | |
|----|--|
| 1. | |
| 2. | |
| 3. | |
| 4. | |
| 5. | |
| 6. | |
| 7. | |
| 8. | |

* *Federal exemption* means an exemption allowable for federal income tax purposes.

vices as defined in Section 7702B (c) of the Internal Revenue Code;

d. Insurance covering medical care, including amounts you paid as premiums under part B of Title XVIII of the Social Security Act (Medicare) or for a qualified long-term care insurance contract defined in Section 7702B (b) of the Internal Revenue Code, if the insurance or other amount is income for the tax year;

e. Nursing services, regardless of where the services are rendered, if provided by a practical nurse or a professional nurse licensed to practice in the state according to the Nursing Practice Act;

f. Specialized treatment or the use of special therapeutic devices if a physician prescribes the treatment or device, and the patient can show that the expense was incurred primarily for the prevention or alleviation of a physical or mental defect or illness. "Special therapeutic devices" include corrective eyeglasses, contact lenses and hearing aids prescribed by a physician. Expenses for guide dogs, however, are excluded;

g. Care in an institution other than a hospital, such as a sanitarium or rest home, if the principal reason for the presence of the person in the institution is to receive the medical care available. If the meals and lodging are a necessary part of such care, the cost of the meals and lodging are "medical care expenses."

4. "Physician" means a medical doctor, osteopathic physician, dentist, podiatrist, chiropractic physician or psychologist licensed or certified to practice in New Mexico.

Physicians licensed or certified to practice in New Mexico are recognized. Also qualified are licensed practical nurses and registered professional nurses licensed in New Mexico. Costs of care provided by other health care professionals such as physical therapists, acupuncturists and others licensed by the New Mexico Department of Health are deductible only if the care was provided in their offices

WORKSHEET FOR COMPUTING MEDICAL CARE EXPENSE DEDUCTION

1. Determine your eligible medical care expenses paid during the tax year and enter here. *Important: Also enter this amount on line 13a*.....1. _____
2. From the Medical Care Expenses table below, enter the correct Percentage of Paid Medical Expenses based on your filing status and your adjusted gross income.2. _____
3. Multiply line 1 by line 2. Enter on line 13, Form PIT-13. _____

MEDICAL CARE EXPENSES

Surviving Spouses, Married Individuals Filing Joint Returns

| <u>If Adjusted Gross Income Is:</u> | <u>Percentage of Paid Medical Expenses:</u> |
|-------------------------------------|---------------------------------------------|
| Not over \$30,000 | 25% |
| Between \$30,000 and \$70,000 | 15% |
| Over \$70,000 | 10% |

Single Individuals and Married Persons Filing Separate Returns

| <u>If Adjusted Gross Income Is:</u> | <u>Percentage of Paid Medical Expenses:</u> |
|-------------------------------------|---------------------------------------------|
| Not over \$15,000 | 25% |
| Between \$15,000 and \$35,000 | 15% |
| Over \$35,000 | 10% |

Head of Household

| <u>If Adjusted Gross Income Is:</u> | <u>Percentage of Paid Medical Expenses:</u> |
|-------------------------------------|---------------------------------------------|
| Not over \$20,000 | 25% |
| Between \$20,000 and \$50,000 | 15% |
| Over \$50,000 | 10% |

or at other qualified health care facilities.

Keep full documentation of all medical care expenses for which you claim a deduction on this line. **Do not send the documentation with your tax return.** Keep your receipts in case you are selected for audit or verification of deductions claimed.

Married couples filing separately may claim only those expenses personally incurred. They may not claim any expenses the spouse has already claimed or plans to claim.

Do not claim payments to a veterinarian or veterinary clinic or any other expenses for family pets or other animals.

You may claim the medical care expense deduction in an amount equal to the percentage of medical care

expenses paid during the taxable year based on the filing status and adjusted gross income. (See chart above.)

LINE 13a. Unreimbursed and uncompensated medical care expenses

Enter the total of unreimbursed and uncompensated medical care expenses used to compute the medical care expense deduction claimed on line 13. **To claim the medical care expense deduction, both lines 13 and 13a must be completed or any medical care expense deduction will be denied.**

LINE 14. New Mexico Taxable Income

Add lines 9, 10, 11, 12 and 13 and subtract the total from the sum of lines 7 and 8. Enter zero if negative. This is your New Mexico taxable income.

On line 15 you will calculate your New Mexico tax due based on the New Mexico taxable income amount on line 14.

LINE 15. New Mexico Tax

Calculate your tax. Use either the rate tables beginning on page 1T or Schedule PIT-B. Mark the checkbox "R" if you used the rate tables, or "B" if you used the Schedule PIT-B to compute your tax. When using the rate tables, please be very careful. **MAKE SURE** you use the taxable income amount on line 14.

Complete Schedule PIT-B to calculate your tax if you have income from sources inside and outside New Mexico.

Taxpayers whose tax year ends on a date other than December 31 (fiscal-year filers) are required to compute tax on the taxable income in a special manner if the tax rates for both years are different. As of the posting of these instructions, the tax rates change for tax years 2007 and 2008, and are not expected to change in 2009.

You must use the form for the tax year in which your fiscal year begins.

For the convenience of persons who may need to know how the tax should be computed when the tax rate changes, these instructions are provided. Using the tax rates for both years in which the fiscal year falls, compute your tax on the taxable income for the entire fiscal year. The final tax equals the sum of the "old" tax proportionate to that part of the tax year before the effective date of the "new" tax, and that part of the "new" tax proportionate to the part of the tax year that begins with the effective date of the new tax rates.

For example: A taxpayer files a fiscal-year return beginning October 1, 2007 and ending September 30, 2008 on the 2007 Form PIT-1. The taxable income for the entire fiscal year is \$20,000. The taxpayer computes the tax due on the entire \$20,000 based on the 2007 tax table and also computes the tax due on the entire \$20,000 based on the 2008

tax table. Because three months were in 2007 and nine months were in 2008, the final tax is 1/4 of the tax computed based on the 2007 tax table plus 3/4 of the tax computed based on the 2008 tax table.

If you are a fiscal-year taxpayer, indicate the fiscal year beginning and ending period at the top of your Form PIT-1. Enter the result of the above tax computation on line 14.

Non-resident taxpayers who elect to compute tax on **gross** royalty income under \$5,000 using special procedures instead of filing a complete Form PIT-1 and Schedule PIT-B, enter the **gross** royalty income from New Mexico sources on line 14, and enter a "Y" in the box under line 15 of Form PIT-1, instead of entering an "R" or a "B". Compute the tax by applying the **gross** royalty income. Then follow the instructions for lines 19, 20 and 22 through 36. Also see *Royalty Income of Non-residents* on page 2 of these instructions.

LINE 16. Tax on Lump-Sum Distributions

If you received a lump-sum payment and are using the federal special ten-year tax option on federal Form 4972, use the worksheet on this page to compute your New Mexico averaged tax. You are not eligible to use the New Mexico averaging method if you did not use the federal averaging methods

available. Enter the amount on line 8 of the worksheet for computing tax on lump-sum distributions on line 16 of Form PIT-1.

If you file Schedule PIT-B because you have income sources in and outside New Mexico, allocate to New Mexico on line 3, Schedule PIT-B, the portion of the lump-sum distribution you received while a resident. If you are a *full-year resident* or a *resident* because you were physically present in New Mexico for 185 days or more, you must allocate to New Mexico the lump-sum distribution you received during the entire year. If you are a first-year resident or a part-year resident, allocate only the amount of lump-sum distribution you received while a resident of New Mexico.

NOTE: If you used Schedule PIT-B to calculate New Mexico tax liability on line 15 and also used the federal special tax option and New Mexico averaging methods to calculate tax on a lump-sum distribution on line 16, **DO NOT** add lines 15 and 16 when completing line 19, Form PIT-1 as instructed. Enter the computed additional tax on the lump-sum distribution on line 16, and refer to the instructions for line 14 of Schedule PIT-B, when completing line 15, Form PIT-1. Line 16, Form PIT-1 should not be added back when completing line 19, Form PIT-1.

WORKSHEET FOR COMPUTING TAX ON LUMP-SUM DISTRIBUTIONS

1. Taxable income from line 14 of Form PIT-11. _____
2. Amount of lump-sum income reported for purposes of 10-year tax option or capital gains election on federal Form 49722. _____
3. MULTIPLY line 2 by .20 and enter3. _____
4. ADD lines 1 and 3.....4. _____
5. Enter the tax from the tax rate tables on the amount on line 45. _____
6. Enter the tax from the tax rate tables on the amount on line 16. _____
7. SUBTRACT line 6 from line 5 and enter difference7. _____
8. MULTIPLY the amount on line 7 by 5. (This is the additional averaged tax due on the lump-sum income.) Enter on line 16 of Form PIT-1.....8. _____

LINE 17.
Credit for Taxes Paid to Another State

A **resident** of New Mexico who must pay tax to another state on income that is also taxable in New Mexico may take a credit against New Mexico tax for tax paid to the other state.

This credit is for tax that another state imposes on any portion of income that by law is included in New Mexico net income. Tax withheld is not a factor in calculating the allowable credit. *If the specific item of income is not subject to taxation in both states, no credit is available.* The credit may not be more than the New Mexico tax liability, the sum of lines 15 and 16, on Form PIT-1, or more than 5-1/2% of the income taxable in the other state. Also, the amount of the credit may not exceed the amount of tax paid to the other state. Attach a copy of the complete income tax return(s) from the other state(s). See the worksheet on page 23.

Income that is allocated or apportioned outside New Mexico on Schedule PIT-B does not qualify for credit for taxes paid to another state on that same income. *If a Schedule PIT-B is filed, the income must be required to be allocated or apportioned to New Mexico and included in Column 2 on Schedule PIT-B or a credit for tax paid to another state is not allowed.*

For example: Rental income from property located outside of New Mexico is allocated outside New Mexico on Schedule PIT-B. Because that income is not included in Column 2 on Schedule PIT-B, credit for tax paid to another state cannot be claimed.

Income tax you paid to any municipality, county, or other political subdivision of a state or to any central government of a foreign country does not count toward the credit.

"State" includes the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and states and provinces of

foreign countries. "State" does not include their central governments.

NOTE: Effective for retirement income received after December 31, 1995, federal law prohibits any state from taxing certain retirement income (chiefly pension income) unless you are resident of, or domiciled in, that state. For example, you receive a pension from your former California employer. You now reside in New Mexico. California may not tax your retirement income. The retirement income is taxable in New Mexico because you are a New Mexico resident.

Some taxpayers have permanent homes in other states, but they are physically present in New Mexico for at least 185 days during the tax year. They must file as residents of New Mexico. They allocate their income to New Mexico as a resident on the PIT-B allocation and apportionment schedule, but if they qualify, they also may take a credit for taxes paid to their home state on line 17, Form PIT-1.

WORKSHEET FOR COMPUTATION OF ALLOWABLE CREDIT FOR TAXES PAID TO OTHER STATES BY NEW MEXICO RESIDENTS

NOTE: Complete a separate worksheet for each state which imposed tax on income also taxed in New Mexico.

Name of State _____

1. Enter amount of tax paid to the other state.....1. _____
2. Enter taxable income on which the tax on line 1 was figured. (When the other state applies an allocation and apportionment percentage, enter the other state's taxable income multiplied by the other state's percentage of income.).....2. _____
3. DIVIDE line 1 by line 2. (This is the average effective tax rate on other state income). Calculate to four decimal places (i.e. 0.0463).3. _____
4. Enter the smaller of line 3 or 0.0550 (5½% maximum).4. _____
5. Enter that portion of income that is subject to tax in both New Mexico and the other state, but not more than the amount on line 2. This is that portion of income included on Schedule PIT-B, Column 2, lines 1, 2, 3 and 7, allocated to both states. If this amount is more than line 2, or all income is taxable in both states (no Schedule PIT-B is required to be filed), then enter the amount from line 2.5. _____
6. MULTIPLY line 5 by line 4.6. _____
7. Enter the lesser of line 6 and line 1. This is the credit allowed for tax paid the other state.7. _____

Enter the amount from line 7 of this worksheet (or the sum of line 7 amounts from worksheets completed for each state) on line 17 of the 2008 Form PIT-1.

LINE 18.**Non-refundable Credits**

See the instructions for lines 1 through 15, Schedule PIT-CR, if you are eligible to claim one or more of the following non-refundable credits:

- Cultural Property Preservation Credit;
- Business Facility Rehabilitation Credit;
- Credit for the Welfare-to-Work Program;
- Rural Job Tax Credit;
- Technology Jobs Tax Credit;
- Credit for Electronic Card-Reading Equipment;
- Job Mentorship Tax Credit;
- Land Conservation Incentives Credit;
- Affordable Housing Tax Credit;
- Solar Market Development Tax Credit;
- Blended Biodiesel Fuel Tax Credit;
- Sustainable Building Tax Credit;
- Angel Investment Credit;
- Rural Health Care Practitioners Tax Credit; or
- Agricultural Water Conservation Tax Credit.

You must attach Schedule PIT-CR and any required forms or documentation to support your claim.

LINE 21.**Rebates and Credits**

Complete and attach the Schedule PIT-RC if you claim any of the special New Mexico rebates or credits. The **PIT-RC, Rebate and Credit Schedule** is a separate schedule used by Form PIT-1 filers to claim any of the following refundable credits:

- Low Income Comprehensive Tax Rebate;
- Property Tax Rebate (for low-income persons 65 or older);
- Additional Low Income Property Tax Rebate for Los Alamos County residents;
- Child Day Care Credit;
- Refundable Medical Care Credit for Persons 65 Years of Age or Older;
- Film Production Tax Credit;

- Working Families Tax Credit if you are eligible for the Federal Earned Income Tax Credit,
- Special Needs Adopted Child Tax Credit, or
- Renewable Energy Production Tax Credit.

LINE 22.**New Mexico Income Tax Withheld**

Enter the total of all New Mexico income tax withheld as shown on your annual withholding statements, Form(s) W-2, 1099, 1099-MISC other than income from oil and gas proceeds, 1099-R, W-2G or W-K, *New Mexico Income and Withholding from Pass-Through Entities*. Include a copy of the forms with your PIT-1.

LINE 23.**New Mexico Income Tax Withheld From Oil and Gas Proceeds**

Enter the total of all New Mexico income tax withheld from oil and gas proceeds as shown on your annual withholding statements, 1099-MISC, or RPD-41285, *Annual Statement of Withholding of Oil and Gas Proceeds*. Also include tax withheld and reported on New Mexico Form WT, *Statement of Certain Trust Distributions of Withholding From Oil and Gas Proceeds*. Be sure to include a copy of the forms with your PIT-1.

With the exception of simple and grantor trusts, an entity filing a New Mexico Form PIT-1, CIT-1, PTE or FID-1 that has had tax withheld on oil and gas proceeds may not pass the withholding statement directly to its owners, members, partners or beneficiaries. The entity must file and report the tax withheld on oil and gas proceeds on its New Mexico income tax return.

Only a grantor trust or simple trust may distribute its withholding of oil and gas proceeds to its beneficiaries. To distribute the withholding to its beneficiaries, the simple or grantor trust must first report the withholding paid to the Department, and then issue New Mexico Form WT, *Statement of Certain Trust Distributions of Withholding from Oil and Gas Proceeds*, to its beneficiaries. To report the withholding

tax to be passed on, attach Schedule FID-WD, *Withholding Tax Distributions for Simple and Grantor Trusts*, to Form FID-1. If you are a grantor trust not required to file Form FID-1, simply submit a completed Schedule FID-WD and the Grantor Trust letter listing the trust FEIN and grantor social security number. Also attach a copy of the annual statement of withholding issued to the trust. Note: If a grantor trust has become irrevocable upon the grantor's death, it must file Form FID-1.

The beneficiary of a simple trust or a grantor trust may claim tax withheld on behalf of the simple or grantor trust simply by reporting it on his or her New Mexico income tax return and attaching a copy of Form WT, showing the withholding passed to the beneficiary.

LINE 24.**New Mexico Estimated Tax Payments Made**

Enter the total of New Mexico estimated tax payments made for 2008 as shown in your records. Include your last installment even if you pay it in 2009. Also be sure to include any 2007 overpayments you applied to 2008 estimated taxes. **Important:** Do not include any extension payments or return payments made with Form PIT-PV. Report other payments on line 25. Report only overpayments from prior-year returns and payments made with Form PIT-ES.

If any estimated payments were made using different name(s) or social security number(s), attach a schedule to your return showing how each estimated payment was made.

EXAMPLE: Prior to her marriage in August 2008, a taxpayer made two estimated tax payments in her name and social security number only. She made two additional estimated tax payments after the wedding, but they showed the name of the taxpayer and her new spouse and both social security numbers. The total of the estimated payments should be entered on line 24. Attach a schedule that shows the name(s) and social security number(s) reported with each payment.

NOTE: A payment for gross receipts tax, withholding tax, compensating tax or any other type of tax due to the state of New Mexico, is not a payment towards your personal income tax liability. Do not include these payments as "tax withheld", "estimated" or "other" payments on your personal income tax return.

LINE 25.
Other Payments

Enter the total payments made toward the 2008 personal income tax liability not included in line 24. Include payments made with a request for extension of time to file, or other payments made through the Department's Internet web site using the PIT-PV option or payments filed with Form PIT-PV. You do not need to include payments you made with the return or after the return has been submitted to the Department.

LINE 26.
Total Payments and Credits

Add lines 21 through 25. Enter the total here.

LINE 27.
Tax Due/Amount You Owe

If line 20 is greater than line 26, the difference is the amount of tax you owe. Enter the difference on line 27.

LINE 28
Penalty on Underpayment of Estimated Tax

Enter the amount of penalty on underpayment of estimated tax that you owe. You may leave this line blank if you owe underpayment of estimated personal tax penalty and you wish the Department to compute the penalty for you. The Department will send you a bill or if a refund is due, will reduce your refund by the amount of the penalty due. Penalty on underpayment of estimated tax can be complicated to compute. NOTE: Effective January 1, 2008, the rate used to compute penalty on underpayment of estimated tax is subject to change quarterly.

If you wish to compute your underpay-

ment of estimated tax penalty, see the instructions for PIT-ES, *Estimated Income Tax Payment Voucher*.

LINE 29
Special Method Allowed for Calculation of Underpayment of Estimated Tax Penalty

If you owe penalty for underpayment of estimated personal income tax and you qualify for a special penalty calculation method, enter 1, 2, 3, 4 or 5 in the box on line 29 on Form PIT-1 to indicate the method you used to calculate your underpayment penalty and attach Form RPD-41272, *2008 Calculation of Estimated Personal Income Tax Underpayment Penalty*.

See Form RPD-41272, *2008 Calculation of Estimated Personal Income Tax Underpayment Penalty*, or the instructions for PIT-ES, *Estimated Income Tax Payment Voucher*, for a description of the calculation methods and the meaning of the entries 1, 2, 3, 4 or 5.

Leave the box blank if you do not owe an underpayment penalty or you do not qualify for a special method of computing the underpayment of estimated tax penalty. Generally, taxpayers who pay penalty on underpayment of estimated tax do not need to mark the checkbox on line 29 or file Form RPD-41272, *2008 Calculation of Estimated Personal Income Tax Underpayment Penalty*. However, if you owe penalty for underpayment of estimated payments, you may reduce or eliminate penalty if you qualify for a special penalty calculation method.

You must attach Form RPD-41272 to your 2008 New Mexico Personal Income Tax Return to be allowed the special penalty calculation.

LINE 30
Penalty

Add penalty if you file late and owe tax, or you do not pay the tax on or before the date the return is due. Calculate penalty by multiplying the unpaid amount on line 27 by 2%, then by the number of months or partial months for which the payment is late, not to

exceed 20% of the tax due. You may leave this line blank if you wish the Department to compute the penalty for you. The Department will send you a bill. See *Penalties and Interest* in these instructions for recent legislative changes affecting this penalty.

LINE 31
Interest

Add interest if you do not pay the income tax due on or before the original due date of your return even if you receive an extension of time to file. You may leave this line blank if you wish the Department to compute the interest for you. *The Department will bill you for any penalty or interest due.*

Important: Once your principal tax liability is paid, interest stops accruing. Therefore, you do not need to figure the amount of interest due on your return.

Beginning January 1, 2008, interest is computed on a daily basis, at the rate established for individual income tax purposes by the U.S. Internal Revenue Code (IRC).

The IRC rate changes quarterly. The annual rate for the last quarter of 2008 is 6% and the daily rate is 0.016%. At the time these instructions went to the printer, the rate for the first quarter of 2009 had not been announced. The IRC rate for each quarter is announced by the Internal Revenue Service in the last month of the previous quarter. The annual and daily interest rate for each quarter will be posted on our web site at www.tax.state.nm.us.

The formula for calculating daily interest is: **Tax due x the daily interest rate for the quarter x number of days late = interest due.**

LINES 33 through 36.
Overpayment and Refund

If line 20 is less than line 26, you have an overpayment. Enter the difference. If you have penalty or interest due from lines 28, 30 or 31, reduce the overpayment by the sum. If you do not wish to compute any penalty or interest due, enter the difference. The Depart-

ment will reduce your overpayment by the amount of penalty and/or interest computed.

Your overpayment can be:

- used for voluntary fund contributions (see *New Mexico Voluntary Contributions Form*, Schedule PIT-D), or
- applied to your 2009 estimated tax (enter on line 35), or
- refunded to you (enter on line 36), or
- any combination of these.

An overpayment credited toward your 2009 estimated tax cannot be refunded until you have filed your 2009 tax return in 2010. The Department will not refund an amount of one dollar or less unless you attach to your return a signed statement asking for it.

Refund Express

If you request an amount to be refunded to you on line 36, you may wish to have your tax refund deposited directly into your bank account through Refund Express. To choose Refund Express, complete the "Refund Express" portion on page 2 of Form PIT-1. All fields are required. Complete the bank routing number, the account number, and you *must* mark the appropriate box to indicate the type of account. Failure to complete all three fields will cause your Refund Express request to be denied, and the Department will mail you a paper check.

The Department will mail you a paper check if your bank does not accept your Refund Express information, or if your return or refund requires adjustment.

Refund express is available for deposits to the taxpayer's account *only*. **Taxpayers may not request the funds to be deposited into the account of another payee.**

TRD is not responsible for the misapplication of a direct deposit refund that is caused by the error, negligence or malfeasance on the part of the taxpayer.

Why Use Refund Express?

- Avoid delays that may occur in mailing a check. Refund Express does not guarantee that you will receive your refund check earlier, however -- only that, when the check is issued, it will reach the bank more quickly.
- Payment is more secure. There is no check to get lost or stolen.
- More convenient. No trip to the bank to deposit your check.
- Saves tax dollars. A refund by direct deposit costs less than a check.
- Environmentally friendly. Refunds deposited directly into your account reduces the need for paper.

What is the Routing Number?

The routing number is for bank identification and **must be nine digits**. If the first two digits are not 01 through 12 or 21 through 32, the system will reject the direct deposit and you will receive a check. On the sample check on this page the routing number is 211500151.

Your check may state that it is payable through a bank different from the financial institution where you have your checking account. If so, do not

use the routing number on that check. Instead, contact your financial institution for the correct routing number to enter on this line.

Entering Your Account Number

Your account number can be up to 18 characters. Include hyphens, but omit spaces and special symbols. Enter the number from left to right. Leave unused boxes blank. On the sample check the account number is 2015551517. **Do not** include the check number.

Indicate whether the account is a checking or savings account by entering an "X" in the appropriate box.

Caution: Some financial institutions will not allow a joint refund to be deposited into an individual account. Taxation and Revenue is not responsible if a financial institution refuses a direct deposit.

Collection of Debts from Your Refund

The Department will keep all or part of your overpayment if you owe other taxes to the Department. We will apply that amount to the liability.

The law also requires the Department to transfer all or part of your overpayment if you owe money for past-due child support, educational assistance loans, unemployment compensation, medical support, public assistance or food stamp overpayments, fines, fees and costs owed to district, municipal, magistrate or metropolitan courts, or workers' compensation fees.

Any amount over your liability and debt will be refunded to you.

If you receive notification that all or part of your refund was transferred to one of these agencies, and you wish to protest that action, contact that agency at the address listed below. If your refund was transferred to a claimant agency in error, that agency must correct the error and issue your refund.

EDUCATIONAL ASSISTANCE
NM Educational Assistance

WALTER MAPLE
MARIE MAPLE
123 Main Street
Anyplace, NM 87000

PAY TO THE ORDER OF _____ \$ _____

ANYPLACE BANK
Anyplace, NM 87000

Routing Number: 211500151

Account Number: 2015551517

1540
15-00000000

Do not include the check number

SAMPLE

Foundation
Contract Servicing Department
Default Collections
P.O. Box 25136
Albuquerque, NM 87125-0136
(505) 761-2305

CHILD SUPPORT

Human Services Department
Child Support Enforcement Division
P.O. Box 25110
Santa Fe, NM 87504-5110
(800) 288-7207, (505) 827-1316 or
(505) 476-7042, Instate, or
(800) 585-7631 Out of state

FINANCIAL ASSISTANCE

Human Services Department
Office of the Inspector General
Restitution Unit
P.O. Box 2348
Santa Fe, NM 87504-2348
(800) 431-4593

DEPARTMENT OF WORKFORCE SOLUTIONS

New Mexico Department of Workforce Solutions
Unemployment Insurance Benefit Payment Control
P.O. Box 1928
Albuquerque, NM 87103
(505) 841-2220

For information on specific courts, contact:

ADMINISTRATIVE OFFICE OF THE COURTS

Warrant Enforcement Division
237 Don Gaspar, Room 25
Santa Fe, NM 87501
(505) 827-4754

WORKERS' COMPENSATION FEE

Workers' Compensation Administration
Financial Management Bureau
P.O. Box 27198
2410 Center Ave. SE
Albuquerque, NM 87125-7198
(505) 841-6887 or 841-6895

Paying Your Tax Liability

Making Payment Through the Internet. Using the Department's web site, you may pay by electronic check at **no charge**. Your electronic check authorizes the Taxation and Revenue Department to debit your checking

account in the amount and on the date you specify. Directions are available on the web site. Visit www.tax.state.nm.us, click on *E-services*.

Using the Department's web site, you may also make tax payments via credit card. *A convenience fee of 2.49% is required to use this service.* The fee is charged to reimburse the Department for charges paid to the credit card company.

Making Payment By Mail. Complete the PIT-PV, *Payment Voucher*, if you owe one dollar or more. Include full payment with the voucher. Make your check or money order payable to **New Mexico Taxation and Revenue Department**. Please write your social security number and "2008 PIT-1" on your payment. **DO NOT SEND CASH.**

Please DO NOT combine payment for the amount due on your return with payment for any other tax or estimated payments for 2009. Your payments cannot be separated and credited as you would wish.

A \$20 penalty will be assessed for any check that is not honored by the bank on which it is drawn. This penalty is in addition to any other late filing and late-payment penalties that may be assessed.

Paid Preparers Use Only

Paid preparers must sign your return. Anyone you pay to prepare your return must sign it and fill in the other blanks in the paid preparer's signature section of the return. The preparer may sign it by hand or any other method of electronic signature acceptable to the Internal Revenue Service. If someone prepares your return and does not charge you, that person should not sign the return. You should, however, ensure that you record the name of the person who prepared the return and how to contact the preparer in case there are questions after the return is filed. Paid preparers are subject to certain requirements. For more information, see *Penalties and Interest* on page 11.

A paid preparer with an 11-digit New Mexico CRS identification number enters it in the space provided at the bottom of page 2 of Form PIT-1. NOTE: A paid preparer who is not required to have a New Mexico CRS identification number is not required to complete this field. Generally, persons are not required to obtain a CRS identification number unless they perform services in New Mexico, have an employee or a business location in New Mexico, sell property in New Mexico or lease property employed in New Mexico.

A paid preparer also enters a Federal Employer Identification Number (FEIN) and either a nine-digit social security number or an IRS-issued Preparer Tax Identification Number (PTIN) in the space provided. Include the phone number of the paid preparer.

New: Tax Preparer's Requirement to Ensure Returns are Filed Electronically. Tax practitioners who prepare more than twenty-five New Mexico personal income tax returns must ensure that each return is submitted by department-approved electronic media, unless the taxpayer whose return is being prepared requests otherwise. A \$5 penalty per return is assessed for personal income tax preparers who fail to comply with this requirement.

The requirement applies only to returns filed for the tax year immediately preceding the calendar year in which it is filed.

Department-approved electronic media includes a New Mexico personal income tax return transmitted electronically or submitted in paper form with a 2D Bar Code printed on Form PIT-1 that contains the taxpayer's tax return information. The information in the 2D Bar Code is electronically captured. An electronically transmitted return can be transmitted through the Department's Internet web site or transmitted through the Internet using an approved third party software or online program.

A taxpayer whose return is being prepared may elect to waive the tax preparer's requirement to file by electronic media. If the taxpayer does not

wish the return to be filed by department-approved electronic media, the preparer must keep a signed Form RPD-41338, *Taxpayer Waiver for Preparers Electronic Filing Requirement*, on file, and must mark the checkbox in the Paid Preparer's signature section on the return. Form RPD-41338 does not need to be submitted to the Department with the return.

Now continue with **Step 4**.

STEP 4

Check the figures on your return and on the attachments.

Transfer the figures accurately from your working copy if you prepared one. Check your arithmetic one more time. Enter all items in blue or black ink. **Please do not use pencil.**

STEP 5

Sign and date your return. Please include your telephone number at the bottom of page 2 of Form PIT-1. Complete the PIT-PV Payment Voucher if your return shows tax due on line 32.

Sign and date your original return. If you are married and filing a joint return, both spouses must sign it. Your return cannot be processed if you do not sign it.

Parents of minor children, guardians of dependent taxpayers, surviving spouses, or estate administrators must sign the tax return on behalf of the minor child, dependent or deceased taxpayer. Print or type the relationship under the signature.

Paid preparers must sign your return.

STEP 6

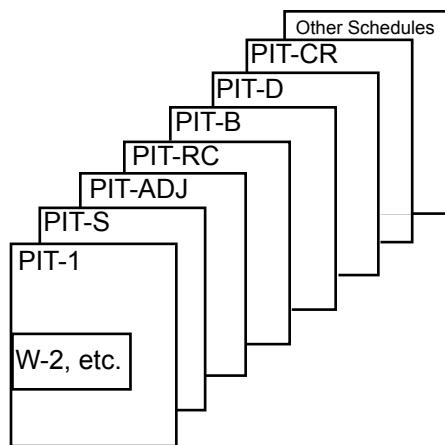
Assemble your return (and Payment Voucher if your return shows tax due).

Submit only original, official state forms. Copies and poor quality printed forms cause a delay in processing your return. **Keep a copy of your original return and attachments** in a safe

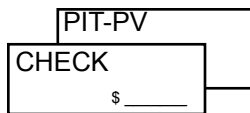
place in case you need to refer to them at a later date. If someone prepares your return for you, **be sure to get a copy for your records.**

Refer to the correct way to assemble your return and the various attachments below for the most efficient handling. You can help ensure that your return (and your refund, if you are entitled to one) is processed as quickly as possible by taking a few moments to assemble your forms as shown below.

Do not use staples.



- 2008 Form PIT-1
- 2008 Schedule PIT-S, if required
- 2008 Schedule PIT-ADJ, if required
- 2008 Schedule PIT-RC, if required
- 2008 Schedule PIT-B, if required
- 2008 Schedule PIT-D, if desired
- 2008 Schedule PIT-CR, if required
- Other required schedules or attachments
- Payment (check or money order)
- PIT-PV Payment Voucher
- Please do not staple your payment to your payment voucher.



Submit your return and attachments including copies of your annual statements of income and withholding forms W-2 or other annual income or withholding statement.

STEP 7

Checklist

Before you mail your return, a quick check will help you avoid common errors that may delay your refund. Complete the Filing Checklist on page 29 and then go to step 8.

STEP 8

Use the pre-addressed mailing envelope or electronically file your return.

To speed your refund, use the pre-addressed envelope that came with your tax package. If you do not have a pre-addressed envelope, address your envelope as follows:

Taxation & Revenue Department
P.O. Box 25122
Santa Fe, NM 87504-5122

Do not submit a photocopy of the Form PIT-1 and schedules to the Department. Submit only original forms. Keep a copy for your records.

The Department encourages all taxpayers to file electronically whenever possible. Electronic filing is fast, safe and secure. It provides the fastest turnaround for a refund and saves tax dollars. A return filed electronically costs less than a paper return. *Taxpayers who file and pay electronically receive an extension of the filing deadline through April 30, 2009.* The filing deadline is April 15, 2009 for all other taxpayers. See **WHEN AND WHERE TO FILE AND PAY** on page 9 for details.

When to Call About Your Refund --

Generally, electronically filed returns claiming a refund are processed within two to four weeks. A paper return received in the Department early in the tax season takes six to eight weeks. If you file a paper return after March 15, you may not receive your refund for up to 12 weeks.

The status of your refund is now available electronically through the Department's web site, at www.tax.state.nm.us. Select the Taxpayer Access Point (TAP) link. You will need

your social security number(s) and the amount of refund due.

If you have to call to ask where your refund check is, please wait until suf-

ficient time has passed for the Department to process your refund claim, then call (505) 827-0827.

Have a copy of your tax return available when you call or visit us on the web.

FILING CHECKLIST

- ☐ Are name(s) and address complete, correct and legible?
- ☐ Are social security numbers legible, accurate and entered on the front and back of each form or schedule where indicated?
- ☐ Spouse's name and social security number must be included if filing "Married Filing Separately".
- ☐ Are W-2 Forms and other information returns showing New Mexico income and tax withheld included?
- ☐ If required, is Schedule PIT-ADJ completed and included with Form PIT-1?
- ☐ If there is an entry on line 18 of Form PIT-1, is Schedule PIT-CR included?
- ☐ If there is an entry on line 21 of Form PIT-1, is Schedule PIT-RC included and are the questions A, B, and C answered, if required?
- ☐ If required, is Schedule PIT-B included?
- ☐ If there is an entry on line 34 of Form PIT-1, is Schedule PIT-D included?
- ☐ Have you checked the arithmetic on your forms? Are all required fields completed and correct?
- ☐ DO NOT STAPLE the forms and attachments.
- ☐ Is the return properly signed and dated? Is a contact telephone number included on the bottom of Form PIT-1?
- ☐ Did you prepare the original forms for mailing to the Department and make a copy of ALL documents for your records?
- ☐ If tax is DUE, did you mail Form PIT-PV and check for the full amount to PO Box 8390, Santa Fe, NM 87504-8390? Are social security number(s) and "2008 PIT-1" written on your check? Make your check or money order payable to New Mexico Taxation and Revenue Department.
- ☐ If you must make estimated tax payments for tax year 2009, did you mail Form PIT-ES and check to PO Box 8390, Santa Fe, NM 87504-8390? Are all social security number(s) and "2009 PIT-ES" written on your check? Make your check or money order payable to New Mexico Taxation and Revenue Department.

KEEP COPIES OF YOUR TAX RECORDS AND RETURNS.

Please remember to keep a copy of your completed income tax return for at least ten years after you file it.

New Mexico Taxpayer Bill of Rights

Most tax transactions happen without incident. In an imperfect world, however, occasional disagreements occur through misunderstanding, mathematical error, missed deadlines, misplaced papers, high volume of transactions and many other situations. Over the years the Legislature and the Department have established ways to handle difficulties according to the provisions of the state tax code. Following are some of your rights. Should you wish to consult the law itself, you will find it in Sections 7-1-4.1 through 4.3 NMSA 1978:

- The right to available public information and prompt and courteous tax assistance;
- The right to representation and advice by counsel or other qualified representatives at any time during your interactions with us according to provisions of Section 7-1-24 NMSA 1978;
- The right to have audits, inspections of records and meetings conducted at a reasonable time and place according to Sec. 7-1-11 NMSA 1978;
- The right to simple, non-technical information explaining procedures, remedies and rights during audit, protest and collection proceedings under the Tax Administration Act;
- The right to receive an explanation of audit results and the basis for audits, assessments or denials of refunds that identify tax, interest or penalty due;
- The right to seek review through formal or informal proceedings of findings or unfavorable decisions arising from determinations during audit or protest procedures according to Sec. 7-1-24 NMSA 1978;
- The right to have your tax information kept confidential unless otherwise specified by law in Sec. 7-1-8 NMSA 1978;
- The right to an abatement of an assessment of taxes incorrectly, erroneously or illegally made (Sec. 7-1-28 NMSA 1978) and a right to

seek a compromise of an asserted tax liability. When the Secretary of Taxation and Revenue in good faith doubts that you owe us what we claim you owe, you also have the right to seek a compromise if one exists in your particular case (Sec. 7-1-20 NMSA 1978);

- The right to clear information of the consequences if a tax assessment is not paid, secured, protested or otherwise provided for according to Sec. 7-1-16 NMSA 1978. If you become a delinquent taxpayer, upon notice of delinquency you have the right to timely notice of collection actions that require sale or seizure of your property under the Tax Administration Act, and
- The right to pay your tax obligations by installment payment agreements according to the provisions of Sec. 7-1-21 NMSA 1978.

Confidentiality Provisions:

Statutes regulating the confidentiality of your taxes continue to be strict. Sec. 7-1-8 NMSA 1978 requires the department to answer questions about whether a taxpayer is registered to do business in this state or is registered for other tax programs, but it does not allow employees to reveal whether you have filed a return. A hearing officer's written ruling on questions of evidence or procedure according to Sec. 7-1-24 NMSA 1978 may be made public, but not the name and identification number of the taxpayer requesting the ruling. Now included in public record are the monthly gasoline tax reports of numbers of gallons of gasoline and ethanol-blended fuels received and deducted, and the tax paid by each filer or payer of the tax. Identities of rack operators, importers, blenders, suppliers or distributors and the number of gallons of gasoline and other fuels are public record. The department may make known to the Gaming Control Board the tax returns of license applicants and their affiliates.

Audit Provisions:

We must provide you with written, dated notice that an audit is about to begin on a specific date, and the notice must tell you which tax programs and reporting periods will be covered. We must issue a second notice, which states any outstanding records or books of account requested and not yet received, between 60 and 180 days after the audit begins. If you do not produce the records within 90 days, the department can issue an assessment of tax on the basis of the information as it stands. If you need additional time, you must submit a specific request in writing. Interest on outstanding liabilities accrues if the department does not issue an assessment within 180 days of the notice of outstanding records or books, or within 90 days after time has expired under your request for additional time; however, you are entitled to an abatement of interest for the period of time after you have complied with department requests and the department has not acted on the audit.

Administrative Hearing Procedures:

A department hearing officer may not engage as an employee in enforcing or formulating general tax policy other than to conduct hearings. You may request the Secretary to determine if a hearing officer's activities have affected his or her impartiality, and the Secretary may assign the case to another hearing officer. Hearing officers may not communicate unilaterally about a matter you have protested while that matter is still pending. The Secretary may appoint another hearing officer if that occurs. You may request a written ruling on any contested question of evidence in matters in which you have filed a pending written protest. You also may request that two or more protests on related issues be combined and heard jointly, and the hearing officer shall grant the request unless it creates an unreasonable burden on the department.

Credit Claims:

The department has 180

days from the filing date to approve or deny a statutory tax credit. If it does not act, the credit is approved. The Secretary decides whether a refund of tax due you may be offset against your other tax liabilities, and you will receive notice that the refund will be made accordingly. You are entitled to interest until the tax liability is credited with the refund amount. Please see the paragraph above on "Audit Provisions" for interest due you if the department does not offset a refund or credit against your other tax liabilities within the prescribed time. The department may make a direct refund of overpaid taxes to the taxpayer without requiring

the taxpayer to file a refund claim. The department does not have to pay interest on credits or refunds if it applies the amount to a tax interception program, to an estimated payment, or to offset prior liabilities of the taxpayer.

Awarding of Costs and Fees:

If you prevail in an administrative or court proceeding brought by you or against you after July 1, 2003, under the Tax Administration Act, you will receive a judgment or a settlement for reasonable administrative costs connected to the action.

Penalty:

The department may not assess penalty against you if you fail to pay tax when due because of a mistake of law made in good faith and on reasonable grounds. If the Secretary determines that it is unfair to hold a spouse or former spouse liable for payment of unpaid taxes, the Secretary may decline to take action against the spouse or former spouse of the person who actually owes the tax. In extreme cases of delinquency under Sec. 7-1-53 the department may enjoin a taxpayer from continuing in business after a hearing and until the delinquency is cleared.

YOU CAN ELECTRONICALLY FILE AND PAY THROUGH THE INTERNET.

INTERNET SERVICES:

- **ELECTRONIC FILING**
- **ELECTRONIC CHECK**
- **TAX PAYMENTS USING VISA, MASTERCARD OR AMERICAN EXPRESS***
- **ASK A QUESTION**
- **NEW: TAP - TAXPAYER ACCESS POINT -**
Find the status of your refund,
Change your mailing address,
Manage your tax account history, or
Register your business.

Visit the Department web site at www.tax.state.nm.us

Click on *E-Services*

*** 2.49% convenience fee added for credit card payments**